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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE

UNREPEALED GENERAL ACTS

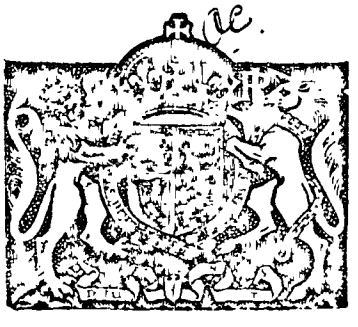
OF

THE INDIAN LEGISLATURE AND ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT, WITH CHRONOLOGICAL TABLES

From 1928 to 1932, both inclusive

Vol. IX

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PREFACE.

This, the ninth volume of the Unrepealed General Acts, has been compiled on the same lines as the preceding volumes and has been divided into two parts, containing, respectively, Acts of the Indian Legislature and Acts made by the Governor General under the provisions of section 67B of the Government of India Act. All Acts are printed as modified up to the 31st December, 1932.

A. W. CHICK,
Offg. Asst. Secretary,
Legislative Department.

20th May, 1933.

CHRONOLOGICAL TABLES.

PART I.

UNREPEALED ACTS OF THE INDIAN LEGISLATURE.

(The figures in column 5 refer to the pages of this volume.)

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[1] No number was given to this Act.

THE

UNREPEALED GENERAL ACTS

OF

THE INDIAN LEGISLATURE AND ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT,

1928-1932.

PART I.

UNREPEALED ACTS OF THE INDIAN LEGISLATURE

ACT No. I OF 1928.[1]

[*8th March, 1928.*]

An Act to amend the Burma Salt Act, 1917, for a certain purpose.

WHEREAS, by the Devolution Rules, made under section 45A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend the Burma Salt Act, 1917, which relates to a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject; It is hereby enacted as follows:—

Bur. Act II of 1917.

1. (*1*) This Act may be called the Burma Salt (Amendment) Act, 1928. Short title and commencement.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Bur. Act II of 1917.

2. The sections of the Burma Salt Act, 1917 (hereinafter referred to as the said Act), shown in the first column of the Schedule are hereby amended in the manner specified in the second column thereof. Amendment of Burma Act II of 1917.

3. Where anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended. Saving of acts done under Burma Act II of 1917.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 29.

[2] This Act came into force on the 15th May, 1928, *see* Gazette of India, 1928, Pt. I. p. 480.

THE SCHEDULE.

(See section 2.)

Sections of Burma Act II of 1917 to be amended.	Amendments.
Section 2 . . .	The following definitions shall be added, namely :— "(*f*) 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 ; IV of 1924. (*g*) 'Commissioner' means the officer appointed by the Governor General in Council to perform the duties of the Commissioner under this Act ; (*h*) 'Collector' means the officer appointed by the Governor General in Council to perform the duties of the Collector under this Act ; (*i*) 'notification' and 'notified' have reference, notwithstanding anything contained in clauses (24) and (40) of section 2 of the Burma General Clauses Act, 1898, to notification in the Gazette of India." Bur. Act I of 1898.
Section 3 . . .	For the words "Local Government or the Financial Commissioner" the words "Central Board of Revenue or the Commissioner" shall be substituted.
Section 4 . . .	For the words "Local Government" the words "Central Board of Revenue" shall be substituted.
Section 5 . . .	(*i*) For the words "Local Government" where they occur in two places the words "Central Board of Revenue" shall be substituted. (*ii*) Clause (*a*) shall be omitted. (*iii*) In clause (*d*), for the words "Financial Commissioner, to a Commissioner or to the Excise Commissioner" the word "Commissioner" shall be substituted. (*iv*) For clause (*e*) the following shall be substituted, namely :— "(*e*) permit the delegation, subject to such conditions as it may think fit, by the Commissioner or by the Collector, of any powers in respect of salt revenue conferred on them by this Act or by any other enactment for the time being in force." (*v*) Clauses (*b*), (*c*), (*d*), (*e*) and (*f*), as so amended, shall be re-lettered as clauses (*a*), (*b*), (*c*), (*d*) and (*e*), respectively.
Section 6 . . .	For the words "Financial Commissioner" the words "Central Board of Revenue" shall be substituted.
Section 7 . . .	For section 7 the following section shall be substituted, namely :— "7. The Governor General in Council may, by notification, impose a duty, at such rate or rates as he may think fit, on salt manufactured in, or imported by land into, Burma." Power to impose duty.
Section 8 . .	For the words "Local Government" the words "Central Board of Revenue" shall be substituted.
Section 17 . . .	In sub-section (*2*), for the word "Collector", where it occurs in three places the word "Superintendent" shall be substituted.
Section 22 . . .	For the words "Subject to such restrictions as the Local Government may prescribe, any Salt, Excise or Police Officer and any Revenue or Customs Officer duly empowered in this behalf", the words "Subject to such restrictions as the Central Board of Revenue, with the approval of the Local Government, may prescribe, any Salt or Customs Officer empowered in this behalf, or any Police, Revenue or Excise Officer empowered in this behalf with the approval of the Local Government" shall be substituted.

THE SCHEDULE—*contd.*

Sections of Burma Act II of 1917 to be amended.	Amendments.
Section 25 . . .	In sub-sections (*1*) and (*3*), for the words "Local Government" the words "Central Board of Revenue" shall be substituted.
Section 27 . . .	For the word "Collector" the word "Superintendent" shall be substituted.
Section 31 . . .	In sub-section (*3*), for the words "Except with the special sanction of the Local Government", the words "Except with special sanction, given by the Central Board of Revenue with the approval of the Local Government," shall be substituted.
Section 32 . . .	(*i*) In sub-section (*1*), for the words "Financial Commissioner, subject to the control of the Local Government," the words "Central Board of Revenue" shall be substituted. (*ii*) In sub-section (*2*), for the words "Financial Commissioner subject to the like control" the words "Central Board of Revenue" shall be substituted.
Section 33 . . .	After the word "Gazette", the words "of India" shall be inserted.
Section 34 . . .	In sub-section (*2*), for the word "Collector" the word "Superintendent" shall be substituted.

ACT No. II OF 1928.[1]

[*8th March, 1928.*]

An Act further to amend the Indian Securities Act, 1920, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Securities Act, X of 1920. 1920, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Securities (Amendment) Act, 1928.

X of 1920. **2.** To section 4 of the Indian Securities Act, 1920, the following sub-section shall be added, namely:— Amendment of section 4, Act X of 1920.

"(*4*) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force whether within or without British India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved."

VII of 1913.
II of 1912.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 66.

ACT No. III OF 1928.[1]

[*13th March, 1928.*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act, 1928.

(*2*) It shall come into force on the 1st day of April, 1928.

Amendment of section 10, Act XI of 1922.

2. In sub-section (*2*) of section 10 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), XI of 1922.

(*a*) after clause (*vii*) the following clause shall be inserted, namely:—

"(*viia*) in respect of animals which have been used for the purposes of the business otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals"; and

(*b*) after clause (*ix*) the following proviso shall be inserted, namely:—

"Provided that nothing in clause (*viii*) or clause (*ix*) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at a proportion of or otherwise on the basis of any such profits or gains."

Amendment of section 14, Act XI of 1922.

3. In clause (*b*) of sub-section (*2*) of section 14 of the said Act, after the words "his share in the firm" the words "at the time of such assessment" shall be added.

Insertion of new section 25A in Act XI of 1922.

4. After section 25 of the said Act the following section shall be inserted, namely:—

Assessment after partition of a Hindu undivided family.

"25A. (*1*) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied that a separation of the members of the family has taken place and that the joint family property

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 173; for Report of Select Committee, *see ibid*, 1928, Pt. V, p. 57.

has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(*2*) Where such an order has been passed, the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no separation or partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (*1*) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it;

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23:

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such."

Amendment of section 26, Act XI of 1922.

5. For section 26 of the said Act the following section shall be substituted, namely:—

Change in constitution of a firm.

"26. (*1*) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

Change of ownership of business.

(*2*) Where, at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year."

Amendment of section 35 Act XI of 1922.

6. In sub-section (*1*) of section 35 of the said Act,—

(*a*) before the words "The Income-tax Officer may" the following words shall be inserted, namely:—

"The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed

by him in appeal or, in the case of the Commissioner, in revision under section 33 and ";

(*b*) for the words " of the assessment " the words " of the appeal, revision or assessment, as the case may be," shall be substituted;

(*c*) for the words " such assessee " the words " the assessee " shall be substituted; and

(*d*) in the proviso, for the words " the Income-tax Officer " the words " the Commissioner, the Assistant Commissioner or the Income-tax Officer, as the case may be," shall be substituted.

Amendment of section 42, Act XI of 1922.

7. In section 42 of the said Act, the following sub-section shall be added, namely:—

" (*3*) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India, and no allowance shall be made under sub-section (*2*) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits **or gains."**

Amendment of section 46, Act XI of 1922.

8. After sub-section (*1*) of section 46 of the said Act the following sub-section shall be inserted, namely:—

" (*1A*) For the purposes of sub-section (*1*), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable."

Amendment of section 48, Act XI of 1922.

9. In section 48 of the said Act, the following sub-sections shall be added, namely:—

" (*4*) For the purposes of this section, ' total income ' includes, in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16.

(*5*) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India."

4 & 5 Geo. 5, c. 17.

10. The proviso to section 56 of the said Act shall be omitted. Amendment of section 56, Act XI of 1922.

11. In the proviso to sub-section (*2*) of section 66, for the word " review " the word " revision " shall be substituted. Amendment of section 66, Act XI of 1922.

ACT No. IV OF 1928.[1]

[*15th March, 1928.*]

An Act further to amend the Inland Bonded Warehouses Act, 1896, for certain purposes.

WHEREAS it is expedient further to amend the Inland Bonded Warehouses Act, 1896, for the purposes hereinafter appearing; It is hereby enacted as follows:—

VIII of 1896.

1. This Act may be called the Inland Bonded Warehouses (Amendment) Act, 1928. Short title.

2. (*1*) In sub-section (*1*) of section 4 of the Inland Bonded Warehouses Act, 1896 (hereinafter referred to as the said Act),— Amendment of section 4, Act VIII of 1896.

VIII of 1896.

(*a*) the words " with the previous sanction of the Local Government " and the words " with the like sanction " shall be omitted; and

(*b*) the following proviso shall be added, namely:—

" Provided that, where a warehouse is to be wholly or partly in the charge of officers serving under a Local Government, it shall not be appointed or licensed as an inland bonded warehouse until the Local Government has signified its assent to such appointment or license."

(*2*) In sub-section (*2*) of the same section, the following words shall be added at the end, namely:—

" and, if the owner so desires, as if goods, in respect of which the procedure laid down in sections 90, 91 and 92 of the said Act has been complied with, were goods already warehoused at a warehousing port within the meaning of section 105 of the said Act."

3. In sections 5 and 7 of the said Act, for the words " Local Government " the words " Chief Customs-authority " shall be substituted. Amendment of sections 5 and 7, Act VIII of 1896.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 262.

ACT No. VI OF 1928.[1]

[*27th March, 1928.*]

An Act further to amend the Indian Merchant Shipping Act, 1923, in order to vest in the Governor General in Council the control of matters covered by that Act.

WHEREAS, by the Devolution Rules, made under section 45A of the Government of India Act, subjects, in relation to the functions of government, have been classified as central and provincial subjects, for the purpose of distinguishing the functions of Local Governments and the functions of the Governor General in Council;

AND WHEREAS the Indian Merchant Shipping Act, 1923, relates to matters falling within the scope of subjects classified as central, but vests the control of many of the said matters in Local Governments; XXI of 1923.

AND WHEREAS it is expedient to vest the control of all such matters in the Governor General in Council;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1928.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Substitution of the Governor General in Council for the Local Governments.

2. In the sections, sub-sections and clauses of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act), which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words " the Local Government ", or " a Local Government ", or " any Local Government ", as the case may be, wherever they occur, the words " the Governor General in Council " shall be substituted. XXI of 1923.

Substitution of " he " signifying the Governor General in Council for " it " signifying a Local Government.

3. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the word " it " wherever it occurs signifying a Local Government, the word " he " shall be substituted.

Omission of phrases relating to the

4. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, the words " with the previous sanction

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 36; for Report of the Select Committee, *see ibid.*, p. 75.

[2] This Act came into force on the 1st April, 1929, *see* Gazette of India, 1929, Pt. I, p. 208.

of the Governor General in Council ", or " and the sanction of the Governor General in Council ", or " subject to the control of the Governor General in Council ", or " with the previous approval of the Governor General in Council ", or " with the approval of the Governor General in Council ", as the case may be, shall be omitted. sanction, approval or control of the Governor General in Council.

5. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words " local official Gazette " wherever they occur, the words " Gazette of India " shall be substituted. Substitution of " Gazette of India " for " local official Gazette."

6. In addition to the amendments to be made under sections 2, 3, 4 and 5, the amendments shown in the fourth column of the Schedule shall be made in the sections, sub-sections or clauses of the said Act shown against them in the first two columns of the Schedule. Further amendments to be made.

7. After section 4 of the said Act the following section shall be inserted, namely:— Insertion of new section 4-A in Act XXI of 1923.

" 4A. The Governor General in Council may, by notification in the Gazette of India, delegate to any Local Government any or all of his powers under this Act, either absolutely or subject to such conditions or restrictions as he may think fit." Power of the Governor General in Council to delegate his powers to Local Governments.

8. After section 294 of the said Act, the following section shall be inserted, namely:— Insertion of new section 294-A in Act XXI of 1923.

" 294A. (*1*) The Governor General in Council may, if he thinks fit, appoint Committees for the purpose of advising him when considering the making or alteration of any rules or scales under this Act, consisting of such persons as he may appoint representing the interests principally affected, or having special knowledge of the subject-matter. Power to appoint committees to advise on rules and scales.

(*2*) There shall be paid to the members of any such Committee such travelling and other allowances as the Governor General in Council may fix.

(*3*) Committees may be appointed under this section to advise the Governor General in Council especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the Governor General in Council may assign to them."

9. Where anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended. Saving of things done under Act XXI of 1923.

THE SCHEDULE.

(See sections 2, 3, 4, 5 and 6.)

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
6	(2)	2	
	(3)	2, 3	(*i*) The word " respectively " shall be omitted. (*ii*) For the words " the control of that Government " or the words " his control or to the control " shall be substituted.
7	(1)	2	
9	(1)	2	
15	..	2	
16	..	2, 3	
17	(3)	2	
18	..	2	
19	..	2	
20	..	2	(*i*) The words " by or under the authority of which his certificate was granted " shall be omitted. (*ii*) After the word " him ", where it first occurs the words " under this Act " shall be inserted.
21	..	2, 4	
24	(1) & (2)	2	
28	(2), clause (*f*)	2, 4, 5	
40	(1)	2, 3	For the words " the territories subject to the said Government " and for the words " such territories ", the words " British India " shall be substituted.
43	(1)	2	
44	(1)	2	
48	(1)	2	
53	(3)	2	
70	(2)	2	
71	(1)	2	
74	(2)	2, 4	
78	(2)	2	
81	(1)	2, 3, 5	
85	(1)	2	
87	(1)	2, 4, 5	
106	(1)	2	
116	(1), clause (*a*)	2, 3	
	(1), „ (*b*)	2, 3	
119	(1)	2	
120	(1)	2	
126	..	2, 4, 5	
129	..	2, 3	For the words " within the territories under its administration " the words " in British India " shall be substituted.
131	..	2, 5	
132	..	2	
135	(1)	2	
136	(1), (3) & (4)	2	
137	(1)	2	
138	Clause (*c*)	2	

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
139	..	2, 3	
140	(1)	2, 3	
141	..	..	This section shall be omitted.
143	..	2	
144	(1)	2, 3	
	(2)	2, 3, 5	
	(3)	2	
145	(1)	2, 4	
	(2), clause (*d*)		The words "within the territories under its administration" shall be omitted.
147	(3)	2, 4	
148	(1)	2, 3, 4	
	(2)	2	
150	(1)	2	
151	(1)	2	
156	..	2	
159	(2)	..	The words "the Local" shall be omitted.
160	(3)	2	For the words "that Government appoints" the words "he may appoint" shall be substituted.
167	(2)	2	
170	(1) & (2)	2	
173	..	2, 3	
178	..	2	
188	(1)	2	For the words "that Government" the word "him" shall be substituted.
191	(1)	..	(*i*) In clause (*i*) the word "and" shall be omitted. (*ii*) After clause (*i*) the following two clauses shall be inserted, namely :— "(*j*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; (*k*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board; and". (*iii*) clause (*j*) shall be re-lettered as clause (*l*).
191	(2)	..	This sub-section shall be omitted.
191	(3)	..	This sub-section shall be re-numbered as sub-section (*2*); and for the words "authority making it" the words "Governor General in Council" shall be substituted.
191	(4)	..	This sub-section shall be re-numbered as sub-section (*3*).
203	(1)	2	
206	(1) & (3)	2	
207	(1)	2	
208A	..	2	
209A	(1)	2	
209C	(3)	2	

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
213	(1)	..	(*i*) The clauses from (*a*) to (*r*) shall be re-lettered serially from (*a*) to (*u*); and in clause (*u*) as so re-lettered [being the present clause (*r*)] the word "and" shall be omitted.
213	(1)	..	(*ii*) After clause (*u*) as so re-lettered, the following two clauses shall be inserted, namely :— "(*v*) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; (*w*) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board; and"
			(*iii*) clause (*s*) shall be re-lettered as clause (*x*).
213	(2)	..	This sub-section shall be omitted.
213	(3)	..	This sub-section shall be re-numbered as sub-section (2); and for the words "authority making it" the words "Governor General in Council" shall be substituted.
213	(4)	..	The sub-section shall be renumbered as sub-section (3).
214	(1)	2	
216	..	2	
218	(2)	2	
	(3)	2, 4	
221	(2)	2	
223	..	2, 4	For the word "its" the word "his" shall be substituted.
224	(1)	2, 4	
228	(1)	2, 4, 5	
229	(4)	2	
232	(1)	2	
232	(1), clause (*a*)	2, 3	
232	(1), „ (*c*)	2, 3	(*i*) For the word "his" the word "the" shall be substituted. (*ii*) For the word "its" the word "his" shall be substituted.
232	(1), clause (*e*)	2	
232	(1), „ (*f*)	2, 3	
232	(1), „ (*g*)	2	
232	(2) & (3)	2	
235	..	2	
236	..	2	For the words "such Government or officer" where they occur four times, the words "the Governor General in Council or the detaining officer" shall be substituted.
238	Clauses (*ii*) & (*iii*).	2	
239	(1)	2, 3, 5	
246	(3)	..	For the words "or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port", the words "and also to the officer appointed in this behalf by the Governor General in Council" shall be substituted.

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
247	(1)	..	(*i*) For the words "Magistrate or any officer, appointed by the Local Government in this behalf", the words "such officer" shall be substituted. (*ii*) For the words "Local Government" where they occur for the second time, the following words shall be substituted, namely :— "Governor General in Council, and also to the Local Government on or near whose coasts the casualty occurred, or within whose territories any witness resides, or evidence can be obtained as the case may be ; and may proceed to make a preliminary inquiry into the casualty."
247	(2)	..	The words "Magistrate or" shall be omitted. After sub-section (2) the following sub-section shall be added, namely :— "(3) An officer making a preliminary inquiry under this section shall send a report thereof to the Governor General in Council and shall send a copy thereof to the Local Government."
248	..	..	For this section the following section shall be substituted, namely :— "248. Application to Court for a formal investigation. The officer appointed under sub-section (3) of section 246, whether he has made a preliminary inquiry or not, may, and where the Governor General in Council so directs, shall, make an application to a Court empowered under section 249, requesting it to make a formal investigation into any shipping casualty ; and the Court shall thereupon make such investigation."
249	..	..	For this section the following section shall be substituted, namely :— "249. Court empowered to make formal investigation. Magistrates of the first class specially empowered in this behalf by the Local Government and Presidency Magistrates shall have jurisdiction to make formal investigations into shipping casualties under this Part."
251	(1) & (2)	2	

SCHEDULE—*contd.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
253	..	..	For the words "shall have—" and clauses (*a*) and (*b*), the words "shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction" shall be substituted.
254	(1)	..	For this sub-section, the following sub-section shall be substituted, namely :— "(*1*) A Court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs : Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service." After sub-section (*2*) the following sub-section shall be added, namely :— "(*3*) The assessors shall be chosen from a list to be prepared from time to time by the Governor General in Council."
255	(1)	2	
256	..	..	For the words "the powers of a Magistrate of the first class or of a Presidency Magistrate" the words "its powers as a Criminal Court" shall be substituted.
257	(1)	2	At the end of this sub-section the words "and shall also send a copy thereof to the Local Government" shall be added.
	(2)	2	For the word "section" the word "sub-section" shall be substituted.
259	(1)	2, 3 (where the word 'it' first occurs).	For the words "and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but" the word "grant" shall be substituted.
	(3)	2	
260	(1)	2	For the words "that or any other Local Government" the words "the Governor General in Council" shall be substituted.
260	(2)	2	For the word "it" the word "him" and for the word "its" the word "his" shall be substituted.

SCHEDULE—*concld.*

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
261	..	..	This section shall be omitted.
262	..	..	(*i*) For the words "Every Local Government cancelling or suspending" the words "When the Governor General in Council cancels or suspends" shall be substituted. (*ii*) After the word "engineer" the word "he" shall be inserted.
263	(1)	2, 3	
264	(1)	2	
264	(3)	2	For the words "that Government" the word "him" shall be substituted.
264	(5)	2	(*i*) The figures "261" shall be omitted.
264	(5)	2	(*ii*) The words "which cancels or suspends a certificate" shall be omitted. (*iii*) For the words "Local Government to which the Court has forwarded the certificate under sub-section (*3*), as if such Local Government had itself" the words "Governor General in Council as if he had himself" shall be substituted.
266	(1)	2	In clause (*b*), for the words "that Local Government" where they occur twice, the word "him" shall be substituted.
267	(1)	3	For the words "Local Government" the words "Governor General in Council or a person duly appointed by him in this behalf" shall be substituted.
267	(2)	..	For the words "Local Government" the words "Governor General in Council or such authorised person" shall be substituted.
268	(2)	2	
268	(4)	2, 5	
269	(1), (5), (6), (7).	2	
270	..	2	
271	(1)	2, 3	For the words "the Port-officer" the words "a person duly appointed by the Governor General in Council in this behalf" shall be substituted.
271	(2)	2	For the word "its" the word "his" shall be substituted.
273	(1)	2, 3, 5	
276	..	2	
290	..	2	For the words "the territories administered by such Government, and, subject to the control of the Governor General in Council", the words "British India, and may" shall be substituted.
291	..	2	
294	..	..	The words "or the local official Gazette, as the case may be," shall be omitted.

ACT No. VII OF 1928.[1]

[*27th March, 1928.*]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:— VIII of 1894.

Short title and commencement.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1928.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of the Second Schedule to Act VIII of 1894.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. VIII of 1894.

THE SCHEDULE.

(*See section 2.*)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In sub-head (*c*) of Item No. 12, for the words "which may be maintained and organized for Imperial Service" the words "being a unit notified in pursuance of the First Schedule to the Indian Extradition Act, 1903," shall be substituted. XV of 1903.

2. In Item No. 14, after the word "QUININE" the following words shall be added, namely:—

"and alkaloids derived from other sources which are chemically identical with alkaloids extracted from cinchona bark."

3. In Item No. 15, after the words "spraying machines" the following words shall be inserted, namely:—

"beet pullers, broadcast seeders, corn pickers, corn shellers, cultipackers, drag scrapers, stalk cutters, huskers and shredders, potato planters, lime sowers, manure spreaders, listers, soil graders."

4. In Item No. 16, after the words "cream separators" the words "milking machines" shall be inserted.

5. In sub-head (*4*) of Item No. 18A, after the word "materials" the brackets and words "(other than cotton, hair and canvas ply)" shall be inserted.

6. In Item No. 18C, the word "aluminium" shall be omitted; and for the words "lead and rule cutters" the words "lead cutters, rule cutters, slug cutters" shall be substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 64; for Report of Select Committee, *see ibid.*, p. 92.

[2] This Act came into force on the 3rd April, 1928, *see* Gazette of India, 1928, Pt. I, p. 387.

7. In Item No. 20, after the word " coin " the following words shall be added, namely:—

" and gold and silver sheets and plates which have undergone no process of manufacture subsequent to rolling."

8. After Item No. 21A, the following Item shall be inserted, namely:—

" 21B PAPER MONEY."

9. In Item No. 24, for the words " and manuscripts " the words " manuscripts, and illustrations specially made for binding in books " shall be substituted.

10. After Item No. 24, the following Item shall be inserted, namely:—

" 24A LIGHT SHIPS."

and Items Nos. 24A and 24B shall be re-numbered as 24B and 24C, respectively.

11. After Item No. 24C, as so re-numbered, the following Item shall be inserted, namely:—

" 24D STONE prepared as for road metalling."

12. After Item No. 25, the following Item shall be inserted, namely:—

" 25A INSIGNIA AND BADGES of official British and Foreign Orders."

13. In Item No. 26, after the words " SPECIMENS " the words " MODELS AND WALL DIAGRAMS " shall be inserted.

14. After Item No. 27, the following heading and Item shall be inserted, namely:—

" FRUITS AND VEGETABLES.

			Rs.	A.
" 27A	CURRANTS	cwt.	1	4."

15. After Item No. 43, the following heading and Item shall be inserted, namely:—

" MACHINERY.

43A	COTTON, HAIR AND CANVAS PLY BELTING for machinery.	*Ad valorem* 5 per cent."

and Item No. 43A shall be re-numbered 43B.

16. After Item No. 45A, the following Item shall be inserted, namely:—

" 45B YARN (excluding cotton yarn) such as is ordinarily used for the manufacture of belting for machinery. *Ad valorem* 5 per cent."

17. In Item No. 46C, the words " excluding white Portland cement " shall be added.

18. In Item No. 59, for the word " Company " the word " Administration " shall be substituted.

19. In Item No. 63, for the word " water-tank " the word " water-tanks ", and for the word " company " the word " administration " shall be substituted.

20. In Item No. 67, after the word " preserved " the words " not otherwise specified " shall be added.

21. In Item No. 85, the brackets, words and figures, "(*see* Nos. 132 and 133)" and "(*see* Nos. 100A and 134)" shall be omitted.

22. In Item No. 91, after the word " APPLIANCES " the words and brackets "(including plated surgical instruments)" shall be inserted.

23. In Item No. 99, the brackets, words and figures "(*see* No. 21)", " (*see* No. 21A) " and " (*see* Nos. 155 and 156) " shall be omitted, and after the word " unused " the words " and paper money " shall be inserted.

24. In Item No. 100, after the word " silk ", where it occurs for the first time, the words " and silk mixtures " shall be inserted, and the brackets, words and figures "(*see* No. 134)", where they occur in two places, and the brackets, words and figures "(*see* No. 22)" shall be omitted.

25. In Item No. 103, for the words " other than Portland cement " the words " excluding Portland cement other than white Portland cement " shall be substituted.

26. In Item No. 118, the words " but excluding stone prepared as for road metalling " shall be added.

27. In Item No. 129, the words " excluding surgical instruments " shall be added.

28. In Item No. 132, after the word " wire " the words " gold leaf " shall be inserted, and after the word " sorts " the words " not otherwise specified " shall be added.

29. In Item No. 133, after the word " wire " the words " silver leaf " shall be inserted, and after the word " sorts " the words " not otherwise specified " shall be added.

30. In Item No. 138, for the words " including photographs and picture postcards " the brackets and words " (including photographs and picture postcards), not otherwise specified " shall be substituted.

ACT No. VIII OF 1928.[1]

[*27th March, 1928.*]

An Act to provide for the modification of certain import duties relating to the protection of the steel industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to remove the protective duty now leviable on certain kinds of iron or steel nails and wire, the said protective duty being no longer required;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 80; for Report of the Select Committee, *see ibid.*, p. 95.

AND WHEREAS it is also expedient to remove the existing inequality of tariff treatment as between manufacturers in British India and manufacturers abroad of iron and steel bolts and nuts;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Steel Industry (Protection) Act, 1928. Short title and commencement.

(*2*) It shall come into force on the 1st day of April, 1928.

VIII of 1894. **2.** In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of the Second Schedule to Act VIII of 1894.

THE SCHEDULE.

(*See section 2.*)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In item No. 61—

(*a*) the second sub-item, namely,

" ,, ,, bolts and nuts, including hook bolts and nuts for roofing;"

shall be omitted,

(*b*) in the fourth sub-item, the words, brackets and figures " not otherwise specified (*see* No. 145)" shall be omitted, and

(*c*) in the tenth sub-item, for the words " barbed or stranded fencing-wire and wire-rope " the words " wire including fencing-wire and wire-rope, but excluding wire-netting " shall be substituted.

2. For item No. 145, the following shall be substituted, namely:—

"145 IRON OR STEEL BOLTS AND NUTS, including hook bolts and nuts for roofing. Rs. 2 per cwt."

3. Item 149 shall be omitted.

ACT No. IX OF 1928.[1]

[*27th March, 1928.*]

An Act further to amend the Indian Territorial Force Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Indian Territorial Force Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows:— XLVIII of 1920.

1. (*1*) This Act may be called the Indian Territorial Force (Amendment) Act, 1928. Short title and commencement.

(*2*) It shall come into force on such date,[2] not later than the 1st day of January, 1929, as the Governor General in Council may, by notification in the Gazette of India, appoint.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 25; for Report of the Select Committee, *see ibid.*, p. 99.

[2] This Act came into force on the 1st September, 1928, *see* Gazette of India, 1928, Pt. I, p. 764

Amendment of long title and preamble to Act XLVIII of 1920.

2. (*1*) In the long title of the Indian Territorial Force Act, 1920 (hereinafter referred to as the said Act), the words " and to provide for the enrolment therein of persons other than European British subjects " shall be omitted. XLVIII of 1920.

(*2*) In the preamble to the said Act, the words " and for the enrolment therein of persons other than European British subjects who may offer themselves therefor " shall be omitted.

Amendment of section 2, Act XLVIII of 1920.

3. In section 2 of the said Act,—

(*a*) the definition of " Advisory Committee " shall be omitted;

(*b*) between the definitions of " European British subject " and " prescribed " the following definitions shall be inserted, namely:—

" ' non-commissioned officer ' means a person holding non-commissioned rank in the Indian Territorial Force, and includes an acting non-commissioned officer;

' officer ' means a senior officer or a junior officer;" and

(*c*) the definition of " University Corps " shall be omitted.

Amendment of section 4, Act XLVIII of 1920.

4. In section 4 of the said Act,—

(*a*) after the word " more," the word " provincial " shall be inserted;

(*b*) after the word " disband " the words " or re-constitute " shall be inserted; and

(*c*) section 4, as so amended, shall be re-numbered as sub-section (*1*), and the following sub-sections shall be added, namely:—

" (*2*) The Governor General in Council may constitute for any town or group of towns in a Province one or more urban corps or units of the Indian Territorial Force, to be recruited from persons residing in or near such town or towns, and may disband or re-constitute any corps or unit so constituted.

(*3*) The Governor General in Council may constitute for any Province a University Corps consisting of one or more units of the Territorial Force, for the appointment thereto of students of, and other persons connected with, a University established by law in British India, or colleges affiliated to such a University, and may disband or re-constitute any unit so constituted."

Insertion of new section 4A in Act XLVIII of 1920.

5. After section 4 of the said Act, the following section shall be inserted, namely:—

Classes of officers.

" 4A. (*1*) There shall be the following classes of officers in the Indian Territorial Force, namely:—

(*a*) senior officers, holding commissions granted by the Governor General in the name of His Majesty, with British designation of rank, and

(*b*) junior officers, holding commissions granted by the Governor General, with Indian designation of rank.

(*2*) An officer shall be deemed to be enrolled in the Indian Territorial Force for so long as he holds a commission in that Force."

6. In sub-section (*1*) of section 5 of the said Act,— Amendment of section 5, Act XLVIII of 1920.

(*a*) the words and brackets " (not being a European British subject)" shall be omitted; and

(*b*) the following proviso shall be added, namely:—

" Provided that no European British subject shall be enrolled in any corps or unit of the Indian Territorial Force other than a University Corps."

7. (*1*) In sub-section (*2*) of section 5, in sub-section (*1*) of section 6, and in sub-section (*2*) of section 7 of the said Act, after the word " Province ", the words " or town or group of towns " shall be inserted. Amendment of sections 5, 6 and 7, Act XLVIII of 1920.

(*2*) In sub-section (*2*) of section 7 of the said Act, the words " or of a person enrolled in an urban corps or unit to a provincial corps or unit " shall be added at the end.

8. After section 7 of the said Act, the following section shall be inserted, namely:— Insertion of new section 7A in Act XLVIII of 1920.

" 7A. (*1*) Any enrolled person who leaves his place of residence for the time being and thereby leaves the Province in which the corps or unit in which he is serving is constituted shall, if he does not intend to return to that Province, notify the prescribed authority in that Province of his change of residence. Change of residence.

(*2*) If such person having intended to return does not return within three months, he shall notify the prescribed authority as aforesaid immediately on the expiry of that period.

(*3*) The prescribed authority on being notified of a change of residence under sub-section (*1*) or sub-section (*2*) may, subject to the provisions of section 7, transfer such person from the corps or unit in which he is serving to another corps or unit."

9. In sub-section (*2*) of section 9 of the said Act,— Amendment of section 9, Act XLVIII of 1920.

(*a*) after the word " enrolled " the words " who has attained the age of eighteen years " shall be inserted; and

(*b*) the following proviso shall be added, namely:—

" Provided that nothing in this sub-section shall apply to persons enrolled in a University Corps."

10. In sub-section (*1*) of section 10 of the said Act, the following words shall be added at the end, namely:— Amendment of section 10, Act XLVIII of 1920.

" and no person for the time being serving in an urban corps or unit shall at any time be required to perform military service beyond the

limits of the Province in which the corps or unit in which he is serving is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged."

Substitution of new section for section 11, Act XLVIII of 1920.

11. For section 11 of the said Act, the following section shall be substituted, namely:—

Application of the Army Act and of the Indian Army Act, 1911.

" 11. (*1*) Every senior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Army Act, and any orders or regulations made thereunder, whereupon the said Act, orders and regulations shall apply to him as if he held the same rank in His Majesty's Army as he holds for the time being in the said Force, subject to the terms of his commission and the orders of His Majesty. 44 & 45 Vict., C. 58.

(*2*) Every junior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the terms of his commission and the orders of the Governor General. VIII of 1911.

(*3*) Every non-commissioned officer and man of the Indian Territorial Force,—

(*a*) when called out or embodied for military service under section 9,

(*b*) when attached to, or otherwise acting as part of, or with any regular force, or

(*c*) when embodied for, or otherwise undergoing, military training in the prescribed manner,

shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the orders of the Governor General: VIII of 1911.

Provided that the said Act, rules and regulations shall, in their application to such non-commissioned officers and men when embodied for or otherwise undergoing military training, be modified to such extent and in such manner as may be prescribed:

Provided further that non-commissioned officers and men of an urban corps or unit, when undergoing military training without having been embodied for that purpose, and non-commissioned officers and men of a University Corps when undergoing training, shall, in respect of such training, be subject only to such disciplinary and other rules as may be prescribed.

VIII of 1911. (*4*) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section (*3*), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject:

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong; nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial has already commenced before such expiry."

Insertion of new sections 11A and 11B in Act XLVIII of 1920.

12. After section 11 of the said Act, the following sections shall be inserted, namely:—

Summary trial and punishments.

"11A. In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act, VIII of 1911. 1911, a junior officer, non-commissioned officer or man of the Indian Territorial Force not being a member of a University Corps, may be punished, either by a criminal Court or summarily by order of the prescribed authority, for any offence under that Act, or for the contravention of any rule or regulation under this Act, with fine which may extend to fifty rupees, to be recovered in such manner and by such authority as may be prescribed:

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a Criminal Court:

Provided further that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence made punishable by or under this Act.

Presumption as to certain documents.

11B. Where a junior officer, non-commissioned officer or man of the Indian Territorial Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer, stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein."

Substitution of new section for section 12, Act XLVIII of 1920.

13. For section 12 of the said Act, the following section shall be substituted, namely:—

Advisory Committees.

" 12. (*1*) The Local Government of each Province in which any unit or units of the Indian Territorial Force has or have been constituted shall constitute a Provincial Advisory Committee for all such units, and a Unit Advisory Committee for each of such units.

(*2*) The Governor General in Council shall constitute a Central Advisory Committee to advise him on matters connected with the Indian Territorial Force generally.

(*3*) The constitution, powers and procedure of the Advisory Committees shall be such as may be prescribed.

Amendment of section 13, Act XLVIII of 1920.

14. In clause (*b*) of sub-section (*2*) of section 13 of the said Act, after the word and figure " section 7 " the words, figure and letter " or section 7A " shall be added.

ACT No. X OF 1928.[1]

[*27th March, 1928.*]

An Act further to amend the Auxiliary Force Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Auxiliary Force Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows:— XLIX of 1920.

Short title and commencement.

1. (*1*) This Act may be called the Auxiliary Force (Amendment) Act, 1928.

(*2*) It shall come into force on such date,[2] not later than the 1st day of January, 1929, as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 4, Act XLIX of 1920.

2. In section 4 of the Auxiliary Force Act, 1920 (hereinafter referred to as the said Act), XLIX of 1920.—

(*a*) clause (*b*) shall be omitted;

(*b*) in clause (*c*), the word " or " shall be omitted, and the clause shall be re-lettered as clause (*b*); and

(*c*) clause (*d*) shall be omitted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. I, p. 27; for Report of the Select Committee, *see ibid*, p. 104.

[2] This Act came into force on the 1st January, 1929, *see* Gazette of India, 1928, Pt. I, p. 1088.

3. In section 17 of the said Act,— Amendment of section 17, Act XLIX of 1920.

(*a*) in sub-section (*2*), for the word " may " the word " shall " shall be substituted; and

(*b*) the following sub-sections shall be added, namely:—

" (*3*) Any enrolled person may be discharged by such authority, and subject to such conditions, as may be prescribed.

(*4*) Notwithstanding anything contained in sub-section (*2*) or sub-section (*3*), no enrolled person, who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service."

4. In sub-section (*1*) of section 21 of the said Act, the words " subject, in the case of an officer, to the terms of his commission and the orders of His Majesty, and, in the case of a non-commissioned officer or man, to the orders of the Governor General " shall be added at the end. Amendment of section 21, Act XLIX of 1920.

5. After section 27 of the said Act, the following section shall be inserted, namely:— Insertion of new section 27A in Act XLIX of 1920.

" 27A. Where any non-commissioned officer or man of the Auxiliary Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein." Presumption as to certain documents.

ACT No. XI OF 1928.[1]

[*28th March, 1928.*]

An Act further to amend the Chittagong Port Act, 1914, for certain purposes.

WHEREAS it is expedient further to amend the Chittagong Port Act, 1914, in order to transfer to the Governor General in Council certain powers conferred therein on the Local Government, and in order to reconstitute the body of Commissioners incorporated to administer the port; It is hereby enacted as follows:— Ben. Act V of 1914.

1. (*1*) This Act may be called the Chittagong Port (Amendment) Act, 1928. Short title and commencement.

(*2*) It shall come into force on the 1st day of April, 1928.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 39; for Report of the Select Committee, *see ibid.*, p. 71.

Substitution of "Governor General in Council" for "Local Government" in certain sections of Ben. Act V of 1914.

2. In sub-section (*1*) of section 5, section 9, clause (*c*) of section 12, section 14, sub-section (*1*) of section 15, section 17, clause (*f*) of section 25, sub-section (*3*) of section 28, clause (*ii*) of section 30, sub-section (*3*) of section 33, sub-section (*2*) of section 35, sub-section (*3*) of section 37, sub-section (*2*) of section 39, the proviso to section 41, sub-section (*1*) of section 43, section 44, sub-section (*1*) of section 45, section 49, the second paragraph of section 51, sub-section (*2*) of section 57, sub-sections (*1*) and (*3*) of section 58, section 59, the proviso to section 69, sub-section (*3*) of section 78, sub-section (*1*) of section 82 and the proviso thereto, section 83 and the proviso thereto, clause (*8*) of section 84, sub-section (*1*) of section 86, sub-sections (*1*), (*2*), (*3*) and (*4*) of section 87, sub-section (*2*) of section 88, section 89 and the proviso thereto, sections 91, 92 and 93, sub-section (*1*) of section 94, sections 95 and 96, sub-sections (*1*), (*2*) and (*3*) of section 97, sub-sections (*1*) and (*2*) of section 98 and the proviso to the latter sub-section, sections 99 and 100, and sub-sections (*1*) and (*2*) of section 101 of the Chittagong Port Act, 1914 (hereinafter referred to as the said Act), for the words "Local Government", wherever they occur, the words "Governor General in Council" shall be substituted. Ben. Act V of 1914.

Substitution of "Gazette of India" for "Calcutta Gazette" in certain sections of Ben. Act V of 1914.

3. In section 19, sub-section (*1*) of section 43, section 44, sub-section (*1*) of section 45, section 46, sub-section (*2*) of section 57, sub-section (*5*) of section 58, and sub-section (*4*) of section 87 of the said Act, for the words "*Calcutta Gazette*" the words "Gazette of India" shall be substituted.

Substitution of new section for section 7, Ben. Act V of 1914.

4. For section 7 of the said Act, the following section shall be substituted, namely:—

"7. There shall be twelve Commissioners, as follows:—

Composition of the body corporate.

(*a*) the Chairman,

(*b*) the Collector of Chittagong District, *ex-officio*,

(*c*) the Customs-collector of the port, *ex-officio*,

(*d*) one Commissioner appointed by the Governor General in Council,

(*e*) one Commissioner appointed by the administration of the Assam-Bengal Railway,

(*f*) three Commissioners elected by the Chamber of Commerce at Chittagong,

(*g*) three Commissioners elected by the Chittagong Indian Merchants' Association, or by such body or bodies or firms as the Governor General in Council may, from time to time, select as best representing the interests of the Indian mercantile community at Chittagong, and

(*h*) one Commissioner elected by the municipal commissioners of Chittagong."

5. For section 8 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 8, Ben. Act V of 1914.

" 8. The election of Commissioners shall be made in such manner as may be determined by the electing bodies in each case, subject to the approval of the Governor General in Council." Mode of election.

6. In section 9 of the said Act, for the figure " 8 " the figure " 7 " shall be substituted. Amendment of section 9, Ben. Act V of 1914.

7. For section 10 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 10, Ben. Act V of 1914.

" 10. (*1*) The Chairman shall be appointed by the Governor General in Council. Appointment of Chairman and Vice-Chairman.

(*2*) A Vice-Chairman shall be elected by the Commissioners from amongst themselves, at a special meeting called for the purpose, and his appointment shall be subject to the approval of the Governor General in Council."

8. For section 11 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 11, Ben. Act V of 1914.

" 11. (*1*) The Chairman shall hold office until the Governor General in Council accepts his resignation or cancels his appointment. Tenure of office.

(*2*) The Vice-Chairman shall hold office until a new body of elected Commissioners shall have been duly elected, or until the Governor General in Council accepts his resignation, or until the Commissioners, at a special meeting called for the purpose and with the approval of the Governor General in Council, remove him from office.

Explanation.—A new body of elected Commissioners shall be deemed to have been duly elected when, at a general election of such Commissioners, four or more elections have been notified under section 19.

(*3*) A Commissioner appointed under clause (*d*) or clause (*e*) of section 7 shall hold office until he resigns, or until the authority appointing him cancels his appointment.

(*4*) An elected Commissioner shall, subject to the provisions of this Act, hold office for a term of two years or thereafter until his successor shall have been duly elected, and shall be eligible for re-election; but the Governor General in Council may, at any time, accept the resignation of any such Commissioner."

Substitution of new section for section 14, Ben. Act V of 1914.

9. For section 14 of the said Act, the following section shall be substituted, namely:—

Time for holding elections and filling vacancies.

"14. The elections of Commissioners shall be held before the expiry of the term of two years specified in sub-section (*4*) of section 11, or within one month thereafter, and all vacancies shall be filled within one month from their occurrence."

Amendment of section 15, Ben. Act V of 1914.

10. In sub-section (*1*) of section 15 of the said Act, for the word "think" the word "thinks" shall be substituted.

Amendment of section 16, Ben. Act V of 1914.

11. In section 16 of the said Act,—

(*a*) for the figure "*3*" the figure "*4*" shall be substituted;

(*b*) after the words "filled up", the words "by election" shall be inserted;

(*c*) the words "by election or appointment, as the case may be," shall be omitted; and

(*d*) the words "or appointed" shall be omitted.

Substitution of new section for section 18, Ben. Act V of 1914.

12. For section 18 of the said Act, the following section shall be substituted, namely:—

Leave of absence of Chairman.

"18. The Governor General in Council may grant leave of absence to the Chairman, and may appoint a person to officiate for him during his absence on leave. Any person so appointed shall be deemed to be the Chairman for the purposes of this Act."

Omission of section 23, Ben. Act V of 1914.

13. Section 23 of the said Act shall be omitted.

Amendment of section 25, Ben. Act V of 1914.

14. In clause (*a*) of section 25 of the said Act, for the word "four" the word "five" shall be substituted.

Amendment of section 38, Ben. Act V of 1914.

15. In clause (*i*) of section 38 of the said Act, before the words "by notification", the words "with the previous sanction of the Governor General in Council and" shall be inserted.

Amendment of section 51, Ben. Act V of 1914.

16. In section 51 of the said Act,—

(*a*) for the words "When the Local Government appoint," the word "Where," shall be substituted; and

(*b*) before the words "to be a dock" the words "is appointed" shall be inserted.

17. In sub-section (*2*) of section 61, sub-section (*1*) of section 63 and in section 66 of the said Act, for the words " Collector of Customs ", wherever they occur, the word " Customs-collector " shall be substituted. Amendment of sections 61, 63 and 66, Ben. Act V of 1914.

18. For section 71 of the said Act, the following section shall be substituted, namely:— Substitution of new section for section 71, Ben. Act V of 1914.

" 71. (*1*) If any portion of the property specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, is required by the Local Government for a public purpose, it may be resumed by that Government, with the previous sanction of the Governor General in Council, without claim to compensation on the part of the Commissioners, except— Resumption of property by Government.

(*a*) for the amount of any consideration or other payment made in respect of the transfer to the Commissioners of the property to be resumed,

(*b*) for the cost of revetment and other works for the protection of the property to be resumed, effected by the Port Commissioners or their lessees subsequent to the transfer, and

(*c*) for the cost of buildings and other permanent structures on the property to be resumed, erected by the Commissioners or their lessees, subsequent to the transfer:

Provided that—

(*i*) the compensation to be awarded under clause (*b*) shall not in any case exceed the market value of the land to be resumed at the time of the resumption; and

(*ii*) the compensation to be awarded under clause (*c*) shall be either the original cost of the building or structure or the market value thereof at the time of the resumption, whichever is less.

(*2*) If any question arises between the Commissioners and the Local Government as to the boundaries of any portion of the land specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, the Local Government may define and demarcate such boundaries, and submit the case for the orders of the Governor General in Council, whose decision shall be final.

(*3*) If any question arises as to the adequacy of the compensation proposed to be paid under clause (*a*), clause (*b*) or clause (*c*) of sub-section

(*1*), the Local Government shall submit a report to the Governor General in Council, whose decision shall be final.

(*4*) If any question arises as to the necessity of the resumption of any land under this section, or as to the relative importance of such land to the Local Government and to the Commissioners, the Local Government shall submit a statement of the case to the Governor General in Council, whose decision shall be final."

Amendment of section 74, Ben. Act V of 1914.

19. In section 74 of the said Act,—

(*a*) for the words " after notification in the *Calcutta Gazette* " the words " with the previous sanction of the Governor General in Council and after notification in the Gazette of India " shall be substituted; and

(*b*) the provisos shall be omitted.

Amendment of section 84, Ben. Act V of 1914.

20. In section 84 of the said Act,—

(*a*) in sub-section (*2*), for the words " the Local Government " where they occur in two places, the word " Government " shall be substituted;

(*b*) in sub-section (*4*), for the words " the Local Government may, from time to time, require " the words " may be required " shall be substituted; and

(*c*) in sub-section (*5*), for the words " Local Government ", where they occur for the second time, the words " Governor General in Council " shall be substituted.

Amendment of section 85, Ben. Act V of 1914.

21. In section 85 of the said Act, for the words " Local Government may from time to time require as their " the words " Governor General in Council and the Local Government may, from time to time, agree upon as a reasonable " shall be substituted.

Amendment of section 87, Ben. Act V of 1914.

22. In sub-section (*1*) of section 87 of the said Act, for the words " they think " the words " he thinks " shall be substituted.

Amendment of section 101, Ben. Act V of 1914.

23. In section 101 of the said Act,—

(*a*) in sub-section (*1*), for the words " are ", where it first occurs, the word " is " shall be substituted; and

(*b*) in sub-section (*2*), for the word " their " the word " his " shall be substituted.

Saving of acts done under Ben. Act V of 1914.

24. When anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.

ACT No. XII OF 1928.[1]

[*20th September, 1928.*]

An Act to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts.

WHEREAS it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts; It is hereby enacted as follows:—

Short title, extent and application.

1. (*1*) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1928.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall not apply to any person governed by the Dayabhaga, School of Hindu Law.

Persons not to be excluded from inheritance or rights in joint-family property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint-family property by reason only of any disease, deformity, or physical or mental defect.

Saving and exception.

3. Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

ACT No. XIII OF 1928.[2]

[*20th September, 1928.*]

An Act further to amend the Indian Mines Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Mines Act, IV of 1923. 1923, for certain purposes; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Mines (Amendment) Act, 1928.

(*2*) This section and section 7 shall come into force at once, and the remaining provisions of this Act shall come into force on the 7th day of April, 1930.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 51.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 78; for Report of Select Committee, *see ibid.*, 1928, Pt. V, p. 107.

Amendment of section 23, Act IV of 1923.

2. In section 23 of the Indian Mines Act, 1923 (hereinafter referred to as the said Act), IV of 1923.—

(*a*) after clause (*c*) the following clause shall be inserted, namely:—

"(*d*) for more than twelve hours in any consecutive period of twenty-four hours"; and

(*b*) the section as so amended shall be numbered as sub-section (*1*), and the following sub-section shall be added, namely:—

"(*2*) No person shall employ or permit to be employed in a mine any person whom he knows or has reason to believe to have already been employed in any other mine during the preceding twelve hours."

Insertion of new sections 23A and 23B in Act IV of 1923.

3. After section 23 of the said Act the following sections shall be inserted, namely:—

Limitation of working hours.

"23A. Work shall not be carried on in any mine for a period exceeding twelve hours in any consecutive period of twenty-four hours except by a system of shifts so arranged that not more than one shift of persons employed in work of the same kind shall be at work in the mine at the same time.

Notices regarding hours of work.

23B. (*1*) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of shifts, the time of the commencement and of the end of work for each shift. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(*2*) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (*1*) shall be posted not less than seven days before the commencement of work.

(*3*) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any shift, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change, if he so requires or if the original notice was sent to him."

Amendment of sections 24 and 25, Act IV of 1923.

4. In sections 24 and 25 of the said Act, after the word and figures "section 23" the words, figures and letter "or section 23A" shall be inserted.

5. (*1*) Section 28 of the said Act shall be re-numbered as sub-section (*1*) of section 28, and to that sub-section after the word " employments " the following shall be added, namely:— Amendment of section 28, Act IV of 1923.

" and, where work is carried on by a system of shifts, of the shift in which each such person works."

(*2*) To the same section the following sub-section shall be added, namely:—

" (*2*) No person shall be employed in a mine until the particulars required by sub-section (*1*) have been recorded in the register in respect of such person, and no person shall be employed except during the hours of work specified for him in the register."

6. In section 30 of the said Act, after clause (*c*) the following clause shall be inserted, namely:— Amendment of section 30, Act IV of 1923.

" (*cc*) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars."

7. In section 31 of the said Act,— Amendment of section 31 Act IV of 1923.

(*a*) in sub-section (*3*), the words " or rule ", in both places where they occur, the words " in the case of a regulation ", and the words " and in the case of a rule of every Mining Board constituted in the province " shall be omitted; and

(*b*) after sub-section (*3*) the following sub-section shall be inserted, namely:—

" (*3A*) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the province for which it is proposed to make the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions."

ACT No. XIV OF 1928.[1]

[*22nd September, 1923.*]

An Act further to amend the Indian Succession Act, 1925.

XXXIX of 1925.

WHEREAS it is expedient further to amend the Indian Succession Act, 1925; It is hereby enacted as follows:—

1. This Act may be called the Indian Succession (Amendment) Act, 1928. Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 24; for Report of Select Committee, *see ibid*, 1928, Pt. V, p. 106.

Amendment of section 372, Act XXXIX of 1925.

2. After sub-section (*2*) of section 372 of the Indian Succession Act, 1925, the following sub-section shall be added, namely:— XXXIX of 1925.

"(*3*) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof."

ACT No. XV OF 1928.[1]

[*25th September, 1928.*]

An Act to amend the Indian Trade Unions Act, 1926, for a certain purpose.

WHEREAS it is expedient to amend the Indian Trade Unions Act, 1926, for the purpose hereinafter appearing; It is hereby enacted as follows:— XVI of 1926.

Short title.

1. This Act may be called the Indian Trade Unions (Amendment) Act, 1928.

Substitution of new section for section 11, Act XVI of 1926.

2. For section 11 of the Indian Trade Unions Act, 1926, the following section shall be substituted, namely:— XVI of 1926.

Appeal.

"11. (*1*) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

(*a*) where the head office of the Trade Union is situated within the limits of a Presidency-town or of Rangoon, to the High Court, or

(*b*) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the Local Government may appoint in this behalf for that area.

(*2*) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(*3*) For the purpose of an appeal under sub-section (*1*) an appellate Court shall, so far as may be, follow the same procedure

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 146.

and have the same powers as it follows and has when trying
V of 1908. a suit under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(*4*) In the event of the dismissal of an appeal by any Court appointed under clause (*b*) of sub-section (*1*), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (*2*) and (*3*), and the provisions of those sub-sections shall apply accordingly."

ACT No. XVI OF 1928.[1]

[*25th September, 1928.*]

An Act further to amend the Indian Income-tax Act, 1922, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Income-tax
XI of 1922. Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Income-tax (Amendment) Act, 1928.

Amendment of section 5, Act XI of 1922. XI of 1922. **2.** In sub-section (*3*) of section 5 of the Indian Income-tax Act, 1922, the words " after consideration of any recommendation made by the Local Government in this behalf " shall be omitted.

ACT No. XVII OF 1928.[2]

[*25th September, 1928.*]

An Act to provide for the protection of the match industry.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the protection of the match industry; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Match Industry (Protection) Act, 1928.

Amendment of Schedule II, Act VIII of 1894. **2.** In the Second Schedule to the Indian Tariff Act, 1894,—
VII of 1894. (1) Items Nos. 46, 46A and 46B shall be omitted; and
(2) In Part VII, after Item No. 156, the following headings and Items shall be inserted, namely:—

[1] For Statements of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 162.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 161.

" MISCELLANEOUS.

MATCHES, UNDIPPED SPLINTS AND VENEERS.

157	MATCHES—		
	(1) In boxes containing on the average not more than 100 matches.	Per gross of boxes .	One rupee and eight annas.
	(2) In boxes containing on the average more than 100 matches.	For every 25 matches or fraction thereof in each box, per gross of boxes.	Six annas.
158	UNDIPPED SPLINTS such as are ordinarily used for match making.	Pound . . .	Four annas and six pies.
159	VENEERS such as are ordinarily used for making boxes, including boxes and parts of boxes made of such veneers.	Pound . . .	Six annas."

ACT No. XVIII OF 1928.[1]

[*25th September, 1928.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that the enactments specified in the Second Schedule, which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1928.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

3. *Repeal of certain enactments. Rep. by the Repealing and Amending Act, 1930 (8 of 1930.)*

4. *Savings. Rep. by the Repealing and Amending Act, 1930 (8 of 1930.)*

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 159.

THE FIRST SCHEDULE.

AMENDMENTS.

(*See section 2.*)

1 Year.	2 No.	3 Short title.	4 Amendments.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 37, for the words and figures "under, Part I or Part III of this Act," the words, figures and brackets "by any such person, Clergyman or Minister of Religion as is referred to in clause (1), clause (2) or clause (3) of section 5" shall be substituted.
1897	X	The General Clauses Act, 1897.	(1) In section 3— (*a*) to clause (*3a*) the following shall be added, namely:— "or by the local Legislature or the Governor of Assam under the Government of India Act"; (*b*) to clause (*5*) the following shall be added, namely:— "or by the local Legislature or the Governor of the presidency of Bengal under the Government of India Act"; (*c*) to clause (*5a*) the following shall be added, namely:— "or by the local Legislature or the Governor of Bihar and Orissa under the Government of India Act"; (*d*) to clause (*6*) the following shall be added, namely:— "or by the local Legislature or the Governor of the presidency of Bombay under the Government of India Act"; (*e*) to clause (*8a*) the following shall be added, namely:— "or by the local Legislature or the Governor of Burma under the Government of India Act"; (*f*) to clause (*8b*) the following shall be added, namely:— "or by the local Legislature or the Governor of the Central Provinces under the Government of India Act"; (*g*) to clause (*30*) the following shall be added, namely:— "or by the local Legislature or the Governor of the presidency of Madras under the Government of India Act"; (*h*) to clause (*44a*) the following shall be added, namely:— "or by the local Legislature or the Governor of the Punjab under the Government of India Act"; (*i*) to clause (*46*) the following shall be added, namely:— "or the Government of India Act"; and

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendments.
1897	X	The General Clauses Act, 1897—*contd.*	(*j*) to clause (*55a*) the following shall be added, namely :— " or by the local Legislature or the Governor of the United Provinces under the Government of India Act." (2) In section 16, after the word " having " the words " for the time being " shall be inserted, and for the words " by it " the words " whether by itself or any other authority " shall be substituted. (3) In section 30A, for the words and figure " except in section 5, shall be deemed to include " the following shall be substituted, namely :— " includes an Act of the Indian Legislature and, except in section 5,".
1899	II	The Indian Stamp Act, 1899.	(1) In section 2— (*a*) in clause (*23*), the word " and " at the end shall be omitted ; and (*b*) after clause (*24*) the following shall be added, namely :— " and (*25*) ' soldier ' includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911 ". (2) In Schedule I— (*a*) for clause (*a*) of Article No. 4, the following clause shall be substituted, namely :— " (*a*) as a condition of enrolment under the Indian Army Act, 1911 " ; (*b*) in Article No. 47— (*i*) in sub-clause (ii) of clause (*1*) of Division A, in the first column, for the words " one thousand rupees ", in both places where they occur, the words " one thousand five hundred rupees ", and, in the second column, for the words " Two annas " the words " One anna ", and, in the third column, for the words " One anna " the words " Half an anna " shall be inserted ; (*ii*) to clause (*b*) of Division C, below the entry in the second column, the following proviso shall be added, namely :— " Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2-8-0 *per* Rs. 1,000, the duty on such instrument shall be one anna for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it," and

THE FIRST SCHEDULE—*concld.*

1 Year.	2 No.	3 Short title.	4 Amendments.
1899	II	The Indian Stamp Act, 1899—*concld.*	(*iii*) for Division D the following shall be substituted :— If drawn singly. / If drawn in duplicate for each part. "D—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article— (*i*) for every sum insured not exceeding Rs. 250 . Two annas. / One anna. (*ii*) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500 Four annas. / Two annas. (*iii*) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000 . Six annas. / Three annas *Exemption.* Policies of life-insurance granted by the Director General of Post Offices in accordance with rules for Postal Life-Insurance issued under the authority of the Governor General in Council"; and (*c*) in clause (*a*) of the *Exemptions* from Article No. 53, for the words "or exempted" the words "or any instrument exempted" shall be substituted, and after the words and brackets "(instruments executed on behalf of the Government)" the words "or any cheque or bill of exchange payable on demand" shall be inserted.
1908	V	The Code of Civil Procedure, 1908.	To section 98 the following sub-section shall be added, namely :— "(*3*) Nothing in this section shall be deemed to alter or otherwise affect any provision of the letters patent of any High Court"
1923	XXI	The Indian Merchant Shipping Act, 1923.	(1) In the heading above section 217, for the words "*Draught of Water*" the word "*Deck line*" shall be substituted. (2) In clause (*iv*) of section 227, after the words "British India" the words "which comes into any port in British India" shall be inserted.

THE SECOND SCHEDULE.

Repeals.

Rep. by the Repealing and Amending Act, 1930 (8 of 1930).

ACT No. XIX OF 1928.[1]

[*25th September, 1928.*]

An Act further to amend the Madras Salt Act, 1889, for a certain purpose.

WHEREAS it is expedient further to amend the Madras Salt Act, 1889, for the purpose hereinafter appearing; It is hereby enacted as follows:— Mad. Act IV of 1889.

Short title. **1.** This Act may be called the Madras Salt (Amendment) Act, 1928.

Amendment of section 49, Mad. Act IV of 1889. **2.** To section 49 of the Madras Salt Act, 1889 (hereinafter referred to as the said Act), the following paragraph shall be added, namely:— Mad. Act IV of 1889.

"If the officer making the arrest has been empowered in this behalf by general or special order of the Central Board of Revenue, and sufficient bail be tendered for the appearance of the person arrested before the Inspector, the officer shall admit such person to bail."

Amendment of section 53, Mad. Act IV of 1889. **3.** In section 53 of the said Act, after the word and figures "section 47" the words and figures "or section 49" shall be inserted.

ACT No. XX OF 1928.[2]

[*25th September, 1928.*]

An Act further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business.

WHEREAS it is expedient further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes hereinafter appearing, and to provide for the collection of statistical information in respect of insurance business other than life assurance business; It is hereby enacted as follows:— VI of 1912.

PART I.

Preliminary.

Short title, extent and commencement. **1.** (*1*) This Act may be called the Indian Insurance Companies Act, 1928.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 63.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 142; for Report of Select Committee, *see ibid*, p. 170.

(*3*) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint.

PART II.

Amendments to the Indian Life Assurance Companies Act, 1912.

VI of 1912.

2. (*1*) Section 7 of the Indian Life Assurance Companies Act, 1912 (hereinafter in this Part referred to as the said Act), shall be re-numbered as sub-section (*1*) of that section, and to that sub-section, as so re-numbered, after clause (*d*), the following clauses shall be added, namely:— Amendment of section 7, Act VI of 1912.

"(*e*) a statement showing—

(A) as regards new policies of life assurance in respect of which a premium has been paid in the year of account,—

(*i*) the number of policies,

(*ii*) the sums assured,

(*iii*) the amount received by way of single premiums (including all premiums paid at the outset where no subsequent premium is payable), and

(*iv*) the amount of yearly renewal premium income;

(B) as regards total life assurance business,—

(*i*) the number of policies in force at the end of the year of account,

(*ii*) the sum assured (including reversionary bonus additions thereto) under policies in force at the end of the year of account, and

(*iii*) the premium income for which credit is taken in the revenue account;

(C) as regards claims, the amount of the claims paid in the year of account under policies effected in India—

(*a*) to claimants in India, and

(*b*) to claimants outside India;

(*f*) a statement showing, in such forms as the Governor General in Council may prescribe, a classified summary of the investments of the company in India in government securities and in Indian concerns and the other Indian assets held by the company."

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[1] This Act came into force on the 15th November, 1928, *see* Gazette of India, 1928, Pt. I. p. 935.

(Part II.—Amendments to the Indian Life Assurance Companies Act, 1912.)

(*2*) To the same section as re-numbered the following sub-section shall be added, namely:—

"(*2*) For the purposes of clause (*e*) of sub-section (*1*), all items required to be stated shall be net amounts after deduction of the re-insurances of the company's risks, and for the purposes of sub-clauses (A) and (B) of that clause—

(*a*) the statement shall show separately the numbers and amounts in respect of policies effected in, and policies effected outside, India;

(*b*) where a sum assured is payable periodically, whether by way of an annuity or otherwise, it shall be stated separately from lump sum payments; and

(*c*) policies of assurance upon the lives of a group of persons whereby sums assured are payable in respect of several persons included in the group shall be excluded from the statement and be shown in a separate statement containing the like particulars."

Insertion of new section 26A in Act VI of 1912.

3. After section 26 of the said Act the following section shall be inserted, namely:—

Application of surplus assets in liquidation.

"26A. In the winding up of a life assurance company in a case where any proportion of the profits of the company was before the commencement of the winding up allocated to policyholders, if, when the assets and liabilities of the company have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a *primâ facie* surplus), there shall be added to the liabilities of the company in respect of its life assurance business an amount equal to such proportion of the *primâ facie* surplus as is equivalent to such proportion of the profits allocated to shareholders and policyholders as was allocated to policyholders during the ten years immediately preceding the commencement of the winding up, and the assets of the company shall be deemed to exceed its liabilities only in so far as those assets exceed those liabilities after such addition as aforesaid:

Provided that, if in any case there has been no such allocation, or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the company in respect of the life assurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct."

(*Part II.—Amendments to the Indian Life Assurance Companies Act, 1912. Part III.—Provisions as to Insurance Business other than Life Assurance Business.*)

4. In section 33 of the said Act, for the words and figures " sections 7 to 12 " the words, figures and letters " clause (*a*), (*b*), (*c*) or (*d*) of sub-section (*1*) of section 7, sections 8 to 12," shall be substituted. **Amendment of section 33, Act VI of 1912.**

5. Statement (D) in the First Schedule to the said Act shall be omitted. **Amendment of the First Schedule, Act VI of 1912.**

PART III.

Provisions as to Insurance Business other than Life Assurance Business.

6. In this Part, unless there is anything repugnant in the subject or context,— **Definitions.**

(*a*) " certified ", in relation to any copy or translation of a document required to be furnished by or on behalf of an insurance company, means certified by a responsible officer of the company to be a true copy or a correct translation, as the case may be;

(*b*) " insurance company " means any person who transacts in British India the business of effecting contracts of insurance against any risk;

(*c*) expressions used in this Act and defined in the Indian Life Assurance Companies Act, 1912, shall have the meanings assigned to them respectively in that Act. **VI of 1912.**

7. Every insurance company which does not transact life assurance business in British India shall, within six months after the close of each financial year or within such further period as the Governor General in Council may in any case for special reasons allow, deposit with the Governor General in Council four copies of every report on the affairs of the company, and of every balance sheet, revenue account and profit and loss account, in respect of that year, which has been submitted to its shareholders or policyholders, and also, in the case of a company whose head office is situated outside British India, four copies of such of the aforementioned documents as are required by law to be submitted to the Government of the country in which the head office is situated. **Deposit of accounts, etc., with Governor General in Council.**

8. The following statements shall be appended to every revenue account (other than a life assurance revenue account) deposited by an insurance company with the Governor General in Council in compliance with section 7 or with the provisions of the Indian Life Assurance Com- **Statements to be appended to revenue account.**

panies Act, 1912, as respects the year and the class of insurance business to which the revenue account relates, namely, statements showing—

(1) in respect of premium income for which credit is taken in the revenue account, the amount of premiums derived from business effected in India,

(2) in respect of claims, the amount of the claims paid in the year of account under policies effected in India—

(*a*) to claimants in India, and

(*b*) to claimants outside India.

Statement of Indian assets.

9. There shall be appended to every balance sheet deposited by an insurance company with the Governor General in Council in compliance with section 7 a statement showing, in such form as the Governor General in Council may prescribe, a classified summary of the investments of the company in India in government securities and in Indian concerns and the other Indian assets held by the company.

Signing of documents.

10. At least one copy of every document deposited by an insurance company with the Governor General in Council in accordance with the requirements of section 7, section 8 or section 9 shall be signed in the manner provided in section 11 of the Indian Life Assurance Companies Act, 1912. VI of 1912.

Certified copies of vernacular documents.

11. If any portion of any document required to be deposited under section 7, section 8 or section 9 by an insurance company with the Governor General in Council is not written in the English language, a certified translation thereof shall be furnished along with each copy of the document.

Particulars to be filed.

12. Every insurance company which does not transact life assurance business in British India shall, within one month from the commencement of this Act or before it begins to carry on business, whichever is later, furnish to the Governor General in Council—

(*a*) the full address of the principal office of the company in British India;

(*b*) the names of the directors, principal officer and the auditor of the company in British India;

(*c*) a statement of the classes of insurance business carried on or intended to be carried on by the company in British India;

(*d*) a certified copy of the charter, status, deed of settlement or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(*e*) in the case of any such company established outside British India, the names and addresses of some one or more persons resident in British India, authorised to accept on behalf of the company service of process and any notice required to be served on the company;

and, in the event of any alteration being made in the address of the principal office or in such classes of business or in any such instrument as aforesaid or in the name of any such person, the company shall forthwith furnish to the Governor General in Council particulars of the alteration.

Custody and inspection of documents.

13. Every document deposited with the Governor General in Council, in compliance with section 7, section 8 or section 9, or a certified copy of such document, shall be kept by the Registrar, and any such documents or copies shall be open to inspection, and any person may procure a copy of any such document or of any part thereof on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied.

Evidence of documents.

14. (*1*) Every document deposited with the Governor General in Council, in compliance with section 7, section 8 or section 9 which has been certified by the Registrar to be a document so deposited, shall be deemed to be a document so deposited.

(*2*) Every such document purporting to be certified by the Registrar to be a copy of a document so deposited shall be deemed to be a copy of that document, and shall be received in evidence as if it were the original document, unless some variation between it and the original document be proved.

Summary of accounts, etc., to be published.

15. The Governor General in Council shall, from time to time, cause to be published, in such manner as he may direct, a summary of the accounts, balance sheets and statements deposited with him in compliance with section 7, section 8 or section 9, and may append to such summary any note of the Governor General in Council thereon and any correspondence in relation thereto.

Penalty for non-compliance with Act.

16. Any insurance company which makes default in complying with any of the requirements of this Part, and every director, manager or secretary, or other officer or agent of, or partner in, the company who is knowingly a party to the default, shall be punishable in the manner provided in section 34 of the Indian Life Assurance Companies Act, 1912.

VI of 1912.

Penalty for falsifying documents.

17. If any account, balance sheet, statement or other document required by the provisions of section 7, section 8 or section 9 is false in any particular to the knowledge of any person who signs it, such person

shall be punishable in the manner provided in section 35 of the Indian Life Assurance Companies Act, 1912. VI of 1912.

Cognizance of offences.

18. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

Application of Part III to re-insurance business.

19. A person transacting the business of re-insuring contracts of insurance effected by any other person in the course of any class of business other than life assurance business shall not, by reason only of that fact, be deemed to be transacting insurance business of that class.

Exemption.

20. The Governor General in Council may, by notification in the Gazette of India and subject to such restrictions and conditions as he thinks fit, exempt from all or any of the provisions of this Act any provident insurance society registered under the Provident Insurance Societies Act, 1912. V of 1912.

ACT No. I OF 1929.[1]

[*20th February, 1929.*]

An Act further to amend the Indian Limitation Act, 1908.

WHEREAS it is expedient further to amend the Indian Limitation Act, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows:— IX of 1908.

Short title and commencement.

1. (*1*) This Act may be called the Indian Limitation (Amendment) Act, 1929.

(*2*) It shall come into force on the 1st day of January, 1929.

Amendment of section 10, Act IX of 1908.

2. In section 10 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), the following paragraph shall be inserted, namely:— IX of 1908.

> "For the purposes of this section any property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment shall be deemed to be property vested in trust

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 222; for Reports of Select Committees *see ibid*, p. 258 and *ibid*, 1928, Pt. V, p. 87.

The Act has been declared in force in the Sonthal Parganas by s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1930, Pt. II, p. 433.

for a specific purpose, and the manager of any such property shall be deemed to be the trustee thereof."

Amendment of First Schedule to Act IX of 1908.

3. In the First Division of the First Schedule to the said Act,—

(*a*) after Article 48, the following Articles shall be inserted, namely:—

"48A. To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depositary or pawnee for a valuable consideration.	Three years.	When the sale becomes known to the plaintiff.
48B. To set aside sale of moveable property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Three years.	When the sale becomes known to the plaintiff."

(*b*) Article 133 shall be omitted;

(*c*) in Article 134, in the third column, for the words "The date of the transfer" the words "When the transfer becomes known to the plaintiff" shall be substituted; and

(*d*) after Article 134, the following Articles shall be inserted, namely:—

"134A. To set aside a transfer of immoveable property comprised in a Hindu, Muhammadan or Buddhist religious or charitable endowment, made by a manager thereof for a valuable consideration.	Twelve years.	When the transfer becomes known to the plaintiff.
134B. By the manager of a Hindu, Muhammadan or Buddhist religious or charitable endowment to recover possession of immoveable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve years.	The death, resignation or removal of the transferor.
134C. By the manager of a Hindu, Muhammadan or Buddhist religious or charitable endowment to recover possession of moveable property comprised in the endowment which has been sold by a previous manager for a valuable consideration.	Twelve years.	The death, resignation or removal of the seller."

ACT No. II OF 1929.[1]

[*21st February, 1929.*]

An Act to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate.

WHEREAS it is expedient to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate; It is hereby enacted as follows:—

Short title, extent and application.

1. (*1*) This Act may be called the Hindu Law of Inheritance (Amendment) Act, 1929.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 117; for Report of Select Committee, *see ibid.*, p. 187.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, but it applies only to persons who, but for the passing of this Act, would have been subject to the law of Mitakshara in respect of the provisions herein enacted, and it applies to such persons in respect only of the property of males not held in coparcenary and not disposed of by will.

Order of succession of certain heirs.

2. A son's daughter, daughter's daughter, sister, and sister's son shall, in the order so specified, be entitled to rank in the order of succession next after a father's father and before a father's brother:

Provided that a sister's son shall not include a son adopted after the sister's death.

Savings.

3. Nothing in this Act shall—

(*a*) affect any special family or local custom having the force of law, or

(*b*) vest in a son's daughter, daughter's daughter or sister an estate larger than, or different in kind from, that possessed by a female in property inherited by her from a male according to the school of Mitakshara law by which the male was governed, or

(*c*) enable more than one person to succeed by inheritance to the estate of a deceased Hindu male which by a customary or other rule of succession descends to a single heir.

ACT No. III OF 1929.[1]

[*22nd March, 1929.*]

An Act further to amend the Presidency-towns Insolvency Act, 1909, for a certain purpose.

WHEREAS it is expedient further to amend the Presidency-towns Insolvency Act, 1909, for the purpose hereinafter appearing; It is hereby enacted as follows:— III of 1909.

Short title.

1. This Act may be called the Presidency-towns Insolvency (Amendment) Act, 1929.

Amendment of section 69, Act III of 1909.

2. In sub-section (*2*) of section 69 of the Presidency-towns Insolvency Act, 1909, for the words "six months" the words "one year" shall be substituted. III of 1909.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 9.

ACT No. IV OF 1929.[1]

[*22nd March, 1929.*]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, VIII of 1894. 1894, for the purpose of altering the import duty upon printing type and of imposing an import duty upon rubber-insulated copper wires and cables not already dutiable; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1929.

(*2*) It shall come into force on the 1st day of April, 1929.

Amendments to Schedule II, Act VIII of 1894.

VIII of 1894. **2.** In the Second Schedule to the Indian Tariff Act, 1894, the following amendments shall be made, namely:—

(*1*) Item No. 43B shall be re-numbered as No. 43C, and after Item No. 43A the following item shall be inserted under the heading "MACHINERY", namely:—

"43B RUBBER-INSULATED COPPER WIRES AND CABLES, no core of which has a sectional area of less than one-eighth part of a square inch, whether made with any additional insulating or covering material or not.	*Ad valorem* .	5 per cent."

(*2*) After Item No. 45B, the following item shall be inserted under the heading "MISCELLANEOUS", namely:—

"46 PRINTING TYPE	Pound . .	One anna."

(*3*) In Item No. 54, the word "type" shall be omitted.

ACT No. V OF 1929.[2]

[*29th March, 1929.*]

An Act further to amend the Workmen's Compensation Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Workmen's Compen- VIII of 1923. sation Act, 1923, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Workmen's Compensation (Amendment) Act, 1929.

Amendment of section 3, Act VIII of 1923.

VIII of 1923. **2.** In the proviso to sub-section (*1*) of section 3 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the said Act), the word "or" at the end of clause (*b*) and the whole of clause (*c*) shall be omitted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 29.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 153; for Report of Select Committee, *see ibid*, 1929, Pt. V, p. 17.

Amendment of section 5, Act VIII of 1923.

3. (*1*) Section 5 of the said Act shall be re-numbered as sub-section (*1*) of section 5, and in that sub-section as so re-numbered, in the *Explanation*, for the words " this section " the words " this sub-section " shall be substituted.

(*2*) To the same section as so re-numbered the following sub-section shall be added, namely:—

" (*2*) The provisions of sub-section (*1*), other than the proviso, shall apply to the calculation of wages for the purposes of clause (*n*) of sub-section (*1*) of section 2 and of sub-section (*3*) of that section."

Amendment of section 8, Act VIII of 1923.

4. In section 8 of the said Act,—

(*a*) for sub-sections (*1*) to (*3*) the following sub-sections shall be substituted, namely:—

" (*1*) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman,—

(*a*) an employer may make to any dependant or other person, by whom the funeral expenses are to be or have been incurred, an advance not exceeding fifty rupees for the purpose of defraying the same in whole or in part, and may make other advances to dependants on account of compensation, not exceeding however an aggregate of one hundred rupees in the case of any one dependant;

(*b*) the amount of any advance made in accordance with the provisions of clause (*a*) to defray funeral expenses may be deducted by the employer from the lump sum to be deposited with the Commissioner, and the amount of any other advance so made to a dependant, or so much thereof as does not exceed the compensation apportioned to him, shall be deducted by the Commissioner from such compensation and be repaid to the employer.

(*2*) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(*3*) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.";

(*b*) in sub-section (*4*), after the words " under sub-section (*1*) " the words " as compensation in respect of a deceased work-

man " shall be inserted; and after the words " fifty rupees " the following words shall be inserted, namely:—

" or so much of that cost or of fifty rupees, whichever is less, as has not already been advanced by the employer on account of such expenses ";

(*c*) for sub-section (*5*) the following sub-sections shall be substituted, namely:—

" (*5*) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (*4*), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(*6*) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

(*7*) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman "; and

(*d*) sub-section (*6*) shall be re-numbered as sub-section (*8*) and after that sub-section the following sub-section shall be added, namely:—

" (*9*) Where the Commissioner varies any order under sub-section (*8*) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31."

Amendment of section 23, Act VIII of 1923.

5. To section 23 of the said Act after the words " material objects " the following words shall be added, namely:—

" and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898."

V of 1898.

Amendment of section 28, Act VIII of 1923.

6. In sub-section (*1*) of section 28 of the said Act,—

(*a*) for the words " to a person under a legal disability " the words " to a woman or a person under a legal disability " shall be substituted;

(*b*) clause (*b*) of the proviso shall be omitted; and

(*c*) in clause (*d*), for the words " to a person under any legal disability " the words " to a woman or a person under a legal disability " shall be substituted.

Amendment of Schedule II, Act VIII of 1923.

7. In Schedule II to the said Act,—

(*1*) for clause (*v*) the following clause shall be substituted, namely:—

" (*v*) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew; or ";

(*2*) in clause (*vii*), for the word " cable " the words " line or cable or post or standard for the same " shall be substituted; and

(*3*) after clause (*ix*) the following clauses shall be added, namely:—

" or

(*x*) employed upon a railway as defined in clause (*4*) of section 3, and sub-section (*1*) of section 148, of the Indian Railways Act, 1890, by a person fulfilling a contract with the railway administration; or IX of 1890.

(*xi*) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service; or

(*xii*) employed, in connection with operations for winning natural petroleum or natural gas, as a rig-builder, driller, driller's helper, oil-well puller, or in bailing or cleaning oil-wells or putting in and taking out casings or drill pipes in oil-wells; or

(*xiii*) employed in any occupation involving blasting operations."

Amendment of Schedule IV, Act VIII of 1923.

8. In Schedule IV to the said Act, for the words and letters " clause (*a*) or clause (*b*) " the word and figure " sub-section (*1*) " shall be substituted.

ACT No. VI OF 1929.[1]

[*30th March, 1929.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to raise the import and excise duties on motor spirit.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, to fix rates of income-tax, and to raise the import and excise duties on motor spirit; It is hereby enacted as follows:—

VI of 1898.
X of 1923.

1. (*1*) This Act may be called the Indian Finance Act, 1929. **Short title, extent and duration.**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) Sections 2 and 3 shall remain in force only up to the 31st day of March, 1930.

2. *Fixation of salt duty.—Spent.*

3. *Postal rates.—Spent.*

4. *Amendment of Act X of 1923.—Virtually repealed by Act 15 of 1930, s. 8.*

5. *Income-tax and super-tax.—Spent.*

Duties on motor spirit.

6. (*1*) In Schedule II to the Indian Tariff Act, 1894, in Item No. 40A, for the words " Four annas " in the entry in the fourth column, the words " Six annas " shall be substituted. VIII of 1894.

(*2*) *Virtually repealed by section 6 of the Indian Finance Act, 1931.*

SCHEDULE I.
SCHEDULE II. } *Spent.*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 28.

THE TRADE DISPUTES ACT, 1929 (VII OF 1929).

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ACT No. VII OF 1929.[1]

[*12th April, 1929.*]

An Act to make provision for the investigation and settlement of trade disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of trade disputes, and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Trade Disputes Act, 1929.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

(*4*) It shall remain in force for a period of five years only.

Interpretations.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means a Board of Conciliation constituted under this Act;

(*b*) "Court" means a Court of Inquiry constituted under this Act;

(*c*) "employer", in the case of any industry, business or undertaking carried on by any department of the Government, means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department;

(*d*) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute;

(*e*) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 150; for Report of Select Committee, *see ibid*, 1929, Pt. V, p. 95.

[2] This Act came into force on the 8th May, 1929, *see* Gazette of India, Extraordinary, dated the 8th May, 1929.

(*f*) " prescribed " means prescribed by rules made under this Act;

(*g*) " public utility service " means—

(*i*) any railway service which the Governor General in Council may, by notification in the Gazette of India, declare to be a public utility service for the purposes of this Act; or

(*ii*) any postal, telegraph or telephone service; or

(*iii*) any industry, business or undertaking which supplies light or water to the public; or

(*iv*) any system of public conservancy or sanitation;

(*h*) " railway company " means a railway company as defined in section 3 of the Indian Railways Act, 1890; IX of 1890.

(*i*) " strike " means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(*j*) " trade dispute " means any dispute or difference between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person; and

(*k*) " workman " means any person employed in any trade or industry to do any skilled or unskilled manual or clerical work for hire or reward, but does not include any person employed in the naval, military or air service of the Crown or in the Royal Indian Marine Service.

Reference of Disputes to Courts and Boards.

Reference of disputes to Courts or Boards.

3. If any trade dispute exists or is apprehended between an employer and any of his workmen, the Local Government or, where the employer is the head of a department under the control of the Governor General in Council or is a railway company, the Governor General in Council may, by order in writing,—

(*a*) refer any matters appearing to be connected with or relevant to the dispute to a Court of Inquiry to be appointed by the Local Government or the Governor General in Council, as the case may be; or

(*b*) refer the dispute to a Board of Conciliation to be appointed by the Local Government or the Governor General in Council, as the case may be, for promoting a settlement thereof:

Provided that, where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly.

Courts of Inquiry.

Constitution of Courts.

4. (*1*) A Court shall consist of an independent chairman and such other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(*2*) A Court, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

Duties of Courts.

5. (*1*) A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed.

(*2*) A Court may, if it thinks fit, make interim reports.

Boards of Conciliation.

Constitution of Boards.

6. (*1*) A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(*2*) Where the Board consists of more than one person, the chairman shall be an independent person and the other members shall be either independent persons or persons appointed in equal numbers to represent the parties to the dispute; all persons appointed to represent any party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make the necessary recommendation within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.

(*3*) A Board, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman:

Provided that, where a Board includes an equal number of persons representing the parties to the dispute and the services of any such person cease to be available before the Board has completed its work, the authority appointing the Board shall appoint, in the manner specified in sub-section (*2*), another person to take his place, and the proceedings shall be continued before the Board so re-constituted.

Duties of Boards.

7. (*1*) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same, and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such things as it thinks fit for the purpose of inducing

the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period sufficient in its opinion to allow the parties to agree upon terms of settlement.

(*2*) If a settlement of a dispute is arrived at by the parties thereto after it has been referred to a Board and during the course of the investigation thereof, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and the Board shall send a report of the settlement, together with the memorandum, to the authority by which the Board was appointed.

(*3*) If no such settlement is arrived at during the course of the investigation, the Board shall, as soon as possible after the close thereof, send a full report regarding the dispute to the authority by which the Board was appointed, setting forth the proceedings and steps taken by the Board for the purpose of ascertaining the facts and circumstances relating to the dispute and of bringing about a settlement thereof, together with a full statement of such facts and circumstances and its findings thereon and the recommendation of the Board for the determination of the dispute.

(*4*) The recommendation of the Board shall deal with each item of the dispute, and shall state in plain language what in the opinion of the Board ought and ought not to be done by the respective parties concerned.

General.

Finality of orders constituting a Court or Board.

8. No order of the Governor General in Council or of a Local Government appointing any person as a member of a Court or a Board shall be called in question in any manner.

Procedure and powers.

9. (*1*) Courts and Boards shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(*2*) Courts and Boards shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects; and

(*c*) issuing commissions for the examination of witnesses;

and shall have such further powers as may be prescribed; and every inquiry or investigation by a Court or Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Filling of vacancies.

10. (*1*) If the services of the chairman or of any other independent member of a Court or Board cease to be available at any time for the purposes of the Court or Board, the appointing authority shall in the case of a chairman, and may in the case of any other member, appoint

another independent person to fill the vacancy, and the proceedings shall be continued before the Court or Board so re-constituted.

(*2*) Where the Court or Board consists of one person only and his services cease to be available as aforesaid, the appointing authority shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

Form of report.

11. The report of a Court or Board shall be in writing and shall be signed by all the members of the Court or Board:

Provided that nothing in this section shall be deemed to prevent any member of a Court or Board from recording a minute of dissent from a report or from any recommendation made therein.

Publication of results of inquiry.

12. (*1*) The final and any interim report of a Court or Board, together with any minute of dissent recorded therewith, shall, as soon as possible after its receipt by the authority by which the Court or Board was appointed, be published by that authority in such manner as it thinks fit.

(*2*) The said authority may publish or cause to be published from time to time, in such manner as such authority thinks fit, any information obtained, or conclusions arrived at, by the Court or Board as the result or in the course of its inquiry or investigation.

Certain matters to be kept confidential.

13. (*1*) Notwithstanding anything contained in section 12, there shall not be included in any report or publication made or authorised by a Court or Board or the authority appointing a Court or Board any information obtained by the Court or Board in the course of its inquiry or investigation as to any Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given before the Court or Board, [1][if the Trade Union, person, firm or company in question has preferred a request to the Court or Board, that such information shall be treated as confidential] nor shall any individual member of the Court or Board or any person concerned in the proceedings before it disclose any such information [1][without the consent in writing of the Secretary of the Trade Union or the person, firm or company in question, as the case may be].

(*2*) If any member of a Court or Board or any person present at or concerned in the proceedings before a Court or Board [2][wilfully] discloses any information in contravention of the provisions of sub-section (*1*), he shall, on complaint made by or under the authority of the Trade Union or individual business affected, be punishable with fine which may extend to one thousand rupees:

Provided that nothing in this sub-section shall apply to the disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code.

XLV of 1860.

[1] These words were substituted by s. 2 of the Trade Disputes (Amendment) Act, 1932 (19 of 1932).

[2] This word was inserted, *ibid.*

[1][(*3*) No Criminal Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

(*4*) No Criminal Court shall take cognizance of any offence under this section except with the previous sanction of the authority appointing such Court or Board; and no Civil Court shall without the like sanction entertain any suit against a member of a Court or Board, or any person present at or concerned in the proceedings before a Court or Board, for any matter arising out of such proceedings.]

Representation of parties.

14. Subject to such conditions and restrictions as may be prescribed, any party to a dispute under inquiry or investigation by a Court or Board shall be entitled to be represented before the Court or Board by a legal practitioner.

Special provision regarding Public Utility Services.

Sudden strikes and lock-outs in utility services.

15. (*1*) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(*2*) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(*3*) Where the employer committing an offence under sub-section (*2*) is a corporation, company or other association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as therein provided unless he proves that the offence was committed without his knowledge or without his consent.

(*4*) No Court shall take cognisance of any offence under this section or of the abetment of any such offence save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(*5*) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

[1] Sub-sections (*3*) and (*4*) were inserted by s. 2 of the Trade Disputes (Amendment) Act, 1932 (19 of 1932).

(*Special provision for Illegal Strikes and Lock-outs.*)

Special provision for Illegal Strikes and Lock-outs.

Illegal strike and lock-outs.

16. (*1*) A strike or a lock-out shall be illegal which—

(*a*) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged; and

(*b*) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel the Government to take or abstain from taking any particular course of action.

(*2*) It shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of any such illegal strike or lock-out.

(*3*) For the purposes of this section—

(*a*) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry;

(*b*) without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(*4*) A strike or a lock-out shall not be deemed to be calculated to compel the Government unless such compulsion might reasonably be expected as a consequence thereof.

Penalty.

17. (*1*) If any person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under the provisions of section 16, he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both:

Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

(*2*) No Court shall take cognisance of any offence under this section save on complaint made by, or under authority from, the Governor General in Council or the Local Government.

(*3*) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

Protection of persons withholding from illegal strike or lock-out.

18. (*1*) No person refusing to take part, or to continue to take part, in any strike or lock-out which is illegal under the provisions of section 16 shall, by reason of such refusal or by reason of any action taken by

him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(*2*) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Rules.

Power to make rules.

19. (*1*) The Governor General in Council in respect of industries, businesses and undertakings carried on by him or under his authority, or by a railway company, and the Local Governments in respect of other businesses, industries or undertakings within their respective provinces, may make rules for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the powers and procedure of Courts and Boards, including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation and the number of members necessary to form a quorum;

(*b*) the allowances admissible to members of Courts and Boards and to witnesses;

(*c*) the ministerial establishment which may be allotted to a Court or Board and the salaries and allowances payable to members of such establishments;

(*d*) the conditions and restrictions subject to which persons may be represented by legal practitioners in proceedings under this Act before a Court or Board;

(*e*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be published in the Gazette of India or the local official Gazette, as the case may be, and shall, on such publication, have effect as if enacted in this Act.

ACT No. VIII OF 1929.[1]

[*1st October, 1929.*]

An Act to provide for the levy of a cess on soft coke despatched by rail from collieries in the provinces of Bengal and Bihar and Orissa.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the promotion of the interests of the soft coke industry in the provinces of Bengal and Bihar and Orissa;

AND WHEREAS for this purpose it is expedient to levy a cess on soft coke despatched by rail from collieries in the said provinces;

It is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Indian Soft Coke Cess Act, 1929.

(*2*) It extends to the whole of British India, except Aden.

(*3*) It shall come into force on such date [1]as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Committee" means the Soft Coke Cess Committee constituted under section 4;

(*b*) "prescribed" means prescribed by rules made under this Act; and

(*c*) "soft coke" means all coke which is unsuitable for metallurgical purposes.

Imposition of soft coke cess.

3. (*1*) There shall be levied and collected on all soft coke despatched by rail from collieries in the provinces of Bengal and Bihar and Orissa a cess at the rate of two annas per ton.

(*2*) The cess shall be collected by the Railway Administrations concerned by means of a surcharge on freight and shall be paid to the Committee, after deduction of the expenses of collection (if any), in such manner as may be prescribed.

Constitution of Soft Coke Cess Committee.

4. (*1*) The Governor General in Council shall constitute a Committee, consisting of the following members, to receive and expend the proceeds of the cess:—

(*i*) the Chief Mining Engineer to the Railway Board, *ex-officio;*

(*ii*) one person nominated by the Local Government of Bengal;

(*iii*) one person nominated by the Local Government of Bihar and Orissa;

(*iv*) seven persons nominated by the Indian Mining Federation; and

(*v*) one person nominated by the Indian Mining Association:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 182.

[2] This Act came into force on the 21st June, 1930, *see* Gazette of India, 1930, Pt. I, p. 595.

Provided that, if within the period prescribed in this behalf, any authority or body fails to make any nomination which it is entitled to make under this section, the Governor General in Council may himself nominate a member to fill the vacancy.

(*2*) The Chief Mining Engineer to the Railway Board shall be *ex-officio* President of the Committee.

(*3*) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the Governor General in Council may, on the recommendation of the authority or body which would have been entitled to make the nomination if it had been a first nomination under sub-section (*1*), or where such recommendation is not made within the prescribed period, then on his own initiative, nominate a person to fill the vacancy.

(*4*) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Application of proceeds of soft coke cess.

5. The proceeds of the cess and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may consider advisable to take for promoting the sale and improving the methods of manufacture of soft coke.

Keeping and auditing of accounts.

6. (*1*) The Committee shall keep accounts of all monies received and expended under section 5.

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors may disallow any item which has, in their opinion, been expended out of any monies so received otherwise than as directed by or under this Act.

(*3*) If any item is disallowed, an appeal shall lie to the Governor General in Council, whose decision shall be final.

Power to make rules.

7. (*1*) The Governor General in Council may, after consulting the Committee and after previous publication, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the regulation of the nomination of members of the Committee, and the procedure of the Committee,

(*b*) the regulation of the levy, collection and payment of the cess, and

(*c*) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon.

(*3*) All such rules shall be published in the Gazette of India.

Time during which sections 2 to 7 are to remain in force.

8. Sections 2 to 7 shall remain in force only until the 31st December, 1934:

Provided that the Governor General in Council may, on the recommendation of the Committee, declare by notification in the Gazette of India that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds.

9. When sections 2 to 7 cease to be in force, all monies and other property in the possession of the Committee shall revert to His Majesty.

ACT No. IX OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Indian Boilers Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Boilers Act, V of 1923. 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Boilers (Amendment) Act, 1929.

Amendment of section 2, Act V of 1923.

V of 1923. **2.** In clause (*b*) of section 2 of the Indian Boilers Act, 1923 (hereinafter referred to as the said Act), the words "for use outside such vessel" shall be omitted.

Amendment of section 34, Act V of 1923.

3. Section 34 of the said Act shall be re-numbered as sub-section (*2*) of section 34, and the following sub-section shall be inserted as sub-section (*1*) of that section, namely:—

Exemptions.

"34. (*1*) The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act, subject to such conditions and restrictions as it thinks fit, any boilers or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water."

ACT No. XI OF 1929.[2]

[*1st October, 1929.*]

An Act further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council.

WHEREAS it is expedient further to amend the Calcutta Pilots Act, XII of 1859. 1859, and the Indian Ports Act, 1908, in order to vest the control of the XV of 1908. Bengal Pilot Service in the Governor General in Council; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bengal Pilot Service (Centralisation of Administration) Act, 1929.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 186.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 194.

(*2*) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of Act XII of 1859.

2. (*1*) In sections 2, 3, 4, 17, 18, 19 and 20 of the Calcutta Pilots Act, 1859, for the words " Lieutenant-Governor of Bengal " [" Lieutenant-Governor " or][2], " said Lieutenant-Governor ", as the case may be, wherever they occur, the words " Governor General in Council " shall be substituted. XII of 1859.

(*2*) In section 9 of the said Act, for the words " Magistrate of Police " the words " Presidency Magistrate " shall be substituted.

(*3*) In sub-section (*1*) of section 15 of the said Act, for the words " Local Government " the words " Governor General in Council " shall be substituted.

Amendment of section 85, Act XV of 1908.

3. To sub-section (*1*) of section 35 of the Indian Ports Act, 1908, the following proviso shall be added, namely:— XV of 1908.

" Provided that the rates of fees for pilotage within the Port of Calcutta shall be fixed by the Governor General in Council."

Saving of things done under Act XII of 1859 and Act XV of 1908.

4. Where anything done under the Calcutta Pilots Act, 1859, or the Indian Ports Act, 1908, is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Acts as hereby amended. XII of 1859. XV of 1908.

ACT No. XII OF 1929.[3]

[*1st October, 1929.*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Provident Funds Relief) Act, 1929.

(*2*) It shall come into force on such date[4] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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[1] This Act came into force on the 1st April, 1930, *see* Gazette of India, 1930, Pt. I, p. 146.

[2] These words were substituted by s. 2 and First Sch. of the Repealing and Amending Act, 1930 (8 of 1930).

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 153; for Report of Select Committee, *see ibid*, p. 197.

[4] This Act came into force on the 15th March, 1930, *see* Gazette of India, 1930, Pt. I. p. 206.

XI of 1922.

2. To sub-section (*3*) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following clause shall be added, namely:— Amendment of section 4, Act XI of 1922.

"(*ix*) Any income received by trustees on behalf of a recognised provident fund as defined in clause (*a*) of section 58A."

3. In sub-section (*3*) of section 15 of the said Act, after the word and figure "section 7" the words "and any sums exempted under sub-section (*1*) of section 58F" shall be inserted. Amendment of section 15, Act XI of 1922.

4. In section 58 of the said Act,— Amendment of section 58, Act XI of 1922.

(*a*) in the proviso to sub-section (*1*), after the word and figures "section 57" the words, figures and letter "and under section 58H" shall be added; and

(*b*) in sub-section (*2*), after the word and figures "section 57" the words, figures and letter "and section 58H" shall be inserted.

5. After Chapter IX of the said Act the following Chapter shall be inserted, namely:— Insertion of new Chapter IXA in Act XI of 1922.

"CHAPTER IXA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

58A. In this Chapter, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter;

(*b*) an "employer" means—

(*i*) a Hindu undivided family, company, firm or other association of individuals or persons, or

(*ii*) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11,

maintaining a provident fund for the benefit of his or its employees;

(*c*) an "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(*d*) a "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest;

(*e*) the "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time;

(*f*) the " annual accretion " to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest;

(*g*) the " accumulated balance due " to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and

(*h*) the " regulations of a fund " means the special body of regulations governing the constitution and administration of a particular provident fund.

The according and withdrawal of recognition.

58B. (*1*) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

(*2*) The Governor General in Council may, at his discretion, direct the Commissioner of Income-tax to refuse to accord recognition to any provident fund, or may, at any time, withdraw recognition from any recognised provident fund.

(*3*) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(*4*) An order withdrawing recognition shall take effect from the day on which it is made.

(*5*) An employer objecting to an order of the Commissioner refusing to recognise a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

Conditions to be satisfied by a recognised provident fund.

58C. (*1*) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the Governor General in Council may, by rule, prescribe—

(*a*) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India.

(*b*) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund.

(*c*) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.

(*d*) The fund shall consist of contributions as above specified, of accumulations thereof, and of interest (simple and compound), credited in respect of such contributions and accumulations, and of securities purchased therewith, and of no other sums.

(*e*) The fund shall be vested in two or more trustees, under a trust which shall not be revocable save with the consent of all the beneficiaries.

(*f*) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

(*g*) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund.

(*h*) Save as provided in clause (*g*), or in accordance with such conditions and restrictions as the Governor General in Council may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(*2*) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

Power to relax restrictions of employer's contributions in certain cases.

58D. Subject to any rules which the Governor General in Council may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (*c*) of sub-section (*1*) of section 58C—

(*a*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem; and

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

Annual accretion deemed to be income received.

58E. The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax:

Provided that, for the purpose of sub-section (*3*) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

Exemption of annual accretion from income-tax.

58F. (*1*) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year.

(*2*) In the accounts of a recognised provident fund, the contributions exempted from income-tax under sub-section (*1*) and accumulations thereof shall be shown separately, and interest thereon shall be calculated and shown separately. Such interest shall be exempt from payment of income-tax, in so far as it is allowed at a rate not exceeding such rate as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf.

Exemption of accumulated balance from income-tax and super-tax.

58G. Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax and super-tax, and shall be excluded from the computation of his total income:

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous

service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

(2) Where exemption from payment of income-tax is not allowed under the provisions of sub-section (1), the Income-tax Officer shall calculate the total of the various sums of income-tax from the payment of which the contributions and interest credited to the employee's individual account have been exempted under the provisions of sub-sections (1) and (2) of section 58F, and such total shall be payable by the employee, in addition to any other income-tax for which he may be liable for the year in which the accumulated balance due to him becomes payable.

Deduction at source of income-tax payable on accumulated balances due.

58H. The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under sub-section (2) of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head " Salaries ".

Accounts of recognised provident funds.

58I. (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

Treatment of balances in newly recognised provident funds.

58J. (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-sections (3) and (4) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

(*3*) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year; and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power subject to the said rules, to make a summary calculation of such aggregate.

(*4*) Notwithstanding anything contained in condition (*h*) of sub-section (*1*) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (*3*), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(*5*) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

Treatment of fund transferred by employer to trustee.

58K. (*1*) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(*2*) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions

and interest thereon) shall be deemed to be an expenditure by the employer within the meaning of clause (*ix*) of sub-section (*2*) of section 10, incurred in the year in which the accumulated balance due to the employee is paid.

Provisions relating to rules.

58L. (*1*) All rules made under this Chapter shall be subject to the provisions of sub-sections (*4*) and (*5*) of section 59.

(*2*) In addition to any power conferred by this Chapter, the Governor General in Council may make rules—

(*a*) prescribing the statements and other information to be submitted with an application for recognition;

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are share-holders in the company;

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;

(*d*) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as he may deem requisite.

Application of this chapter.

58M. This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925, applies."

XIX of 1925.

ACT No. XIII OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Indian Territorial Force Act, 1920, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Territorial Force Act, 1920, for the purpose hereinafter appearing; It is hereby enacted as follows:—

XLVIII of 1920.

Short title.

1. This Act may be called the Indian Territorial Force (Amendment) Act, 1929.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 203.

Amendment of section 5, Act XLVIII of 1920.

2. After sub-section (*2*) of section 5 of the Indian Territorial Force Act, 1920, the following sub-section shall be added, namely:— XLVIII of 1920.

"(*3*) The Governor General in Council may, by notification in the Gazette of India, declare in respect of any State in India the Province in which persons residing in that State may be enrolled, and persons so residing shall thereupon be deemed for all purposes of this Act to reside in that Province."

ACT No. XIV OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Indian Cotton Cess Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:— XIV of 1923.

Short title.

1. This Act may be called the Indian Cotton Cess (Amendment) Act, 1929.

Amendment of section 4, Act XIV of 1923.

2. In section 4 of the Indian Cotton Cess Act, 1923 (hereinafter referred to as the said Act), XIV of 1923.

(*i*) in clause (*i*), for the words "the Agricultural Adviser to the Government of India," the words "the Vice-Chairman of the Imperial Council of Agricultural Research" shall be substituted; and

(*ii*) after clause (*i*) the following clause shall be inserted, namely:—

"(*ia*) the Expert Adviser to the Imperial Council of Agricultural Research in agricultural matters;".

Amendment of section 5, Act XIV of 1923.

3. In sub-section (*2*) of section 5 of the said Act, for the words "The Agricultural Adviser to the Government of India," the words "The Vice-Chairman of the Imperial Council of Agricultural Research" shall be substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 204.

ACT No. XV OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Indian Registration Act, 1908, for a certain purpose.

XVI of 1908. WHEREAS it is expedient further to amend the Indian Registration Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Registration (Amendment) Act, 1929.

VI of 1908. **2.** Section 56 of the Indian Registration Act, 1908, is hereby repealed. Repeal of section 56, Act XVI of 1908.

ACT No. XVI OF 1929.[2]

[*1st October, 1929.*]

An Act further to amend the Burma Salt Act, 1917, for certain purposes.

Bur. Act II of 1917. WHEREAS it is expedient further to amend the Burma Salt Act, 1917, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Burma Salt (Amendment) Act, 1929.

Bur. Act II of 1917. **2.** In section 5 of the Burma Salt Act, 1917,— Amendment of section 5, Burma Act II of 1917.

(*a*) in clause (*a*), the word "other," in both places where it occurs, shall be omitted;

(*b*) in clause (*b*), for the word, letter and brackets "clause (*b*)," the word, letter and brackets "clause (*a*)" shall be substituted; and

(*c*) in clause (*d*), after the words "conferred on them by" the words "or under" shall be inserted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 205.

The Act has been declared in force in the Sonthal Parganas by s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1930, Pt. II, p. 433.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 206.

ACT No. XVII OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Guardians and Wards Act, 1890, for a certain purpose.

WHEREAS it is expedient further to amend the Guardians and Wards Act, 1890, for the purpose hereinafter appearing; It is hereby enacted as follows:— VIII of 1890.

Short title.

1. This Act may be called the Guardians and Wards (Amendment) Act, 1929.

Insertion of new section 34A in Act VIII of 1890.

2. After section 34 of the Guardians and Wards Act, 1890 (hereinafter referred to as the said Act), the following section shall be inserted, namely:— VIII of 1890.

Power to award remuneration for auditing accounts.

"34A. When accounts are exhibited by a guardian of the property of a ward in pursuance of a requisition made under clause (*c*) of section 34 or otherwise, the Court may appoint a person to audit the accounts, and may direct that remuneration for the work be paid out of the income of the property."

Amendment of section 50, Act VIII of 1890.

3. In sub-section (*1*) of section 50 of the said Act, after clause (*f*) the following clause shall be inserted, namely:—

"(*ff*) as to the audit of accounts under section 34A, the class of persons who should be appointed to audit accounts, and the scales of remuneration to be granted to them;".

ACT No. XVIII OF 1929.[2]

[*1st October, 1929.*]

An Act further to amend the Indian Succession Act, 1925, for certain purposes.

WHEREAS it is expedient further to amend the Indian Succession Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:— XXXIX of 1925.

Short title.

1. This Act may be called the Indian Succession (Amendment) Act, 1929.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 207.
The Act has been declared in force in the Sonthal Parganas by s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1930, Pt. II, p. 439.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 209.

XXXIX of 1925.

2. After clause (*b*) of section 2 of the Indian Succession Act, 1925 (hereinafter referred to as the said Act), the following clause shall be inserted, namely:— Amendment of section 2, Act XXXIX of 1925.

"(*bb*) 'District Judge' means the Judge of a principal Civil Court of original jurisdiction;".

3. (*1*) Sub-section (*1*) of section 57 of the said Act shall be renumbered as section 57, and after clause (*b*) and before the proviso the word "and" and the following clause shall be added, namely:— Amendment of section 57, Act XXXIX of 1925.

"(*c*) to all wills and codicils made by any Hindu, Buddhist, Sikh, or Jaina on or after the first day of January, 1927, to which those provisions are not applied by clauses (*a*) and (*b*):".

(*2*) Sub-section (*2*) of section 57 of the said Act shall be omitted.

4. In sub-section (*2*) of section 213 of the said Act, for the word "class" the word "classes" and for the words and figures "sub-section (*1*) of section 57" the words, letters and figures "clauses (*a*) and (*b*) of section 57" shall be substituted. Amendment of section 213, Act XXXIX of 1925.

5. The enactments specified in the Schedule are hereby repealed. Repeals.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 5.*)

Year.	No.	Short title.
1926	XXXVII	The Indian Succession (Amendment) Act, 1926.
1928	XXI	The Indian Succession (Second Amendment) Act, 1928.

ACT No. XIX OF 1929.[1]

[*1st October, 1929.*]

An Act to restrain the solemnisation of child marriages.

WHEREAS it is expedient to restrain the solemnisation of child marriages; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Child Marriage Restraint Act, [1929].[2] Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 28; for Reports of Select Committees, *see ibid*, 1928, Pt. V, pp. 111 and 165.

[2] These figures were substituted for the figures "1928" by s. 2 and First Sch. of the Repealing and Amending Act, 1930 (8 of 1930).

(*3*) It shall come into force on the 1st day of April, 1930.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " child " means a person who, if a male, is under eighteen years of age, and if a female, is under fourteen years of age;

(*b*) " child marriage " means a marriage to which either of the contracting parties is a child;

(*c*) " contracting party " to a marriage means either of the parties whose marriage is thereby solemnised; and

(*d*) " minor " means a person of either sex who is under eighteen years of age.

Punishment for male adult below twenty-one years of age marrying a child.

3. Whoever, being a male above eighteen years of age and below twenty-one, contracts a child marriage shall be punishable with fine which may extend to one thousand rupees.

Punishment for male adult above twenty-one years of age marrying a child.

4. Whoever, being a male above twenty-one years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Punishment for solemnising a child marriage.

5. Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage.

Punishment for parent or guardian concerned in a child marriage.

6. (*1*) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.

(*2*) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

Imprisonment not to be awarded for offences under section 3.

7. Notwithstanding anything contained in section 25 of the General Clauses Act, 1897, or section 64 of the Indian Penal Code, a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment. X of 1897. XLV of 1860.

Jurisdiction under this Act.

8. Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1898, no Court other than that of a Presidency Magistrate or a District Magistrate shall take cognizance of, or try, any offence under this Act.

V of 1898.

Mode of taking cognizance of offences.

9. No Court shall take cognizance of any offence under this Act save upon complaint made within one year of the solemnisation of the marriage in respect of which the offence is alleged to have been committed.

Preliminary inquiries into offences under this Act.

10. The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1898, either itself make an inquiry under section 202 of that Code, or direct a Magistrate of the first class subordinate to it to make such inquiry.

V of 1898.

Power to take security from complainant.

11. (*1*) At any time after examining the complainant and before issuing process for compelling the attendance of the accused, the Court shall, except for reasons to be recorded in writing, require the complainant to execute a bond, with or without sureties, for a sum not exceeding one hundred rupees, as security for the payment of any compensation which the complainant may be directed to pay under section 250 of the Code of Criminal Procedure, 1898; and if such security is not furnished within such reasonable time as the Court may fix, the complaint shall be dismissed.

V of 1898.

(*2*) A bond taken under this section shall be deemed to be a bond taken under the Code of Criminal Procedure, 1898, and Chapter XLII of that Code shall apply accordingly.

V of 1898.

ACT No. XX OF 1929.[1]

[*1st October, 1929.*]

An Act further to amend the Transfer of Property Act, 1882, for certain purposes.

WHEREAS it is expedient further to amend the Transfer of Property Act, 1882, for the purposes hereinafter appearing; It is hereby enacted as follows:—

IV of 1882.

Short title and commencement.

1. (*1*) This Act may be called the Transfer of Property (Amendment) Act, 1929.

(*2*) It shall come into force on the first day of April, 1930.

Amendment of section 1, Act IV of 1882.

2. In section 1 of the Transfer of Property Act, 1882 (hereinafter referred to as the said Act), for the figures " 1877 " the figures " 1908 " shall be substituted.

IV of 1882.

[1] For statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 40; for Report of the Special Committee, *see ibid;* for Report of Select Committee, *see ibid*, p. 111.

Amendment of section 2, Act IV of 1882.

3. In section 2 of the said Act, the word "Hindu" and the words "or Buddhist" shall be omitted.

Amendment of section 3, Act IV of 1882.

4. In section 3 of the said Act, for the last paragraph, containing the definition of "notice", the following shall be substituted, namely:—

"'a person is said to have notice' of a fact when he actually knows that fact, or when, but for wilful abstention from an inquiry or search which he ought to have made, or gross negligence, he would have known it.

Explanation I.—Where any transaction relating to immoveable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration or, [1] [where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of section 30 of the Indian Registration Act, 1908, from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated]: XVI of 1908.

Provided that—

(1) the instrument has been registered and its registration completed in the manner prescribed by the Indian Registration Act, 1908, and the rules made thereunder, XVI of 1908.

(2) the instrument [or memorandum] [1] has been duly entered or filed, as the case may be, in books kept under section 51 of that Act, and

(3) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under section 55 of that Act.

Explanation II.—Any person acquiring any immoveable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.

Explanation III.—A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that fact is material:

Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud."

[1] These words were substituted by s. 2 of the Transfer of Property (Amendment) Act, 1930 (5 of 1930).

5. In section 4 of the said Act, for the figures "1877" the figures "1908" shall be substituted. Amendment of section 4, Act IV of 1882.

6. In section 5 of the said Act, after the words "or to himself" the words "or to himself" shall be inserted; and to the same section the following paragraph shall be added, namely:— Amendment of section 5, Act IV of 1882.

"In this section 'living person' includes a company or association or body of individuals, whether incorporated or not, but nothing herein contained shall affect any law for the time being in force relating to transfer of property to or by companies, associations or bodies of individuals."

7. In section 6 of the said Act, after clause (*d*) the following clause shall be inserted, namely:— Amendment of section 6, Act IV of 1882.

"(*dd*) A right to future maintenance, in whatsoever manner arising, secured or determined, cannot be transferred."

8. For the second paragraph of section 11 of the said Act beginning with the words "Nothing in this section" and ending with the words "in a particular manner" the following shall be substituted, namely:— Amendment of section 11, Act IV of 1882.

"Where any such direction has been made in respect of one piece of immoveable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof."

9. In section 15 of the said Act, for the words "as regards the whole class" the following words shall be substituted, namely:— Amendment of section 15, Act IV of 1882.

"in regard to those persons only and not in regard to the whole class."

10. For sections 16, 17 and 18 of the said Act the following sections shall be substituted, namely:— Substitution of new sections for sections 16, 17 and 18, Act IV of 1882.

"16. Where, by reason of any of the rules contained in sections 13 and 14, an interest created for the benefit of a person or of a class of persons fails in regard to such person or the whole of such class, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails. Transfer to take effect on failure of prior interest.

17. (*1*) Where the terms of a transfer of property direct that the income arising from the property shall be accumulated either wholly or in part during a period longer than— Direction for accumulation.

(*a*) the life of the transferor, or

(*b*) a period of eighteen years from the date of the transfer,

such direction shall, save as hereinafter provided, be void to the extent to which the period during which the accumulation is directed exceeds the longer of the aforesaid periods, and at the end of such last-mentioned period the property and the income thereof shall be disposed of as if the period during which the accumulation has been directed to be made had elapsed.

(*2*) This section shall not affect any direction for accumulation for the purpose of—

(*i*) the payment of the debts of the transferor or any other person taking any interest under the transfer, or

(*ii*) the provision of portions for children or remoter issue of the transferor or of any other person taking any interest under the transfer, or

(*iii*) the preservation or maintenance of the property transferred;

and such direction may be made accordingly.

Transfer in perpetuity for benefit of public.

18. The restrictions in sections 14, 16 and 17 shall not apply in the case of a transfer of property for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety, or any other object beneficial to mankind."

Amendment of section 39, Act IV of 1882.

11. In section 39 of the said Act,—

(*a*) the words " with the intention of defeating such right " shall be omitted, and for the words " of such intention " the word " thereof " shall be substituted; and

(*b*) the *Illustration* shall be omitted.

Amendment of section 40, Act IV of 1882.

12. In section 40 of the said Act, for the words " of the latter property or to compel its enjoyment in a particular manner ", the words " in a particular manner of the latter property " shall be substituted.

Amendment of section 43, Act IV of 1882.

13. In section 43 of the said Act, after the word " person " the words " fraudulently or " shall be inserted.

Amendment of section 52, Act IV of 1882.

14. (*1*) In section 52 of the said Act,—

(*a*) for the words " active prosecution " the word " pendency " shall be substituted;

(*b*) for the words " a contentious " the word " any " shall be substituted; and

(*c*) after the words " suit or proceeding ", where they occur for the first time, the words " which is not collusive and " shall be inserted.

(*2*) To the same section the following *Explanation* shall be added, namely:—

" *Explanation.*—For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of the

presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force."

Substitution of new section for section 53, Act IV of 1882.

15. For section 53 of the said Act the following section shall be substituted, namely:—

Fraudulent transfer.

"53. (*1*) Every transfer of immoveable property made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed.

Nothing in this sub-section shall impair the rights of a transferee in good faith and for consideration.

Nothing in this sub-section shall affect any law for the time being in force relating to insolvency.

A suit instituted by a creditor (which term includes a decree-holder whether he has or has not applied for execution of his decree) to avoid a transfer on the ground that it has been made with intent to defeat or delay the creditors of the transferor, shall be instituted on behalf of, or for the benefit of, all the creditors.

(*2*) Every transfer of immoveable property made without consideration with intent to defraud a subsequent transferee shall be voidable at the option of such transferee.

For the purposes of this sub-section, no transfer made without consideration shall be deemed to have been made with intent to defraud by reason only that a subsequent transfer for consideration was made."

Insertion of new section 53A in Act IV of 1882.

16. After section 53 of the said Act the following section shall be inserted, namely:—

Part performance.

"53A. Where any person contracts to transfer for consideration any immoveable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty,

and the transferee has, in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract,

and the transferee has performed or is willing to perform his part of the contract,

then, notwithstanding that the contract, though required to be registered, has not been registered, or, where there is an instrument of

transfer, that the transfer has not been completed in the manner prescribed therefor by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract:

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof."

Amendment of section 55, Act IV of 1882.

17. In section 55 of the said Act,—

(*a*) in sub-clause (*a*) of clause (1), after the word " property " the words " or in the seller's title thereto " shall be inserted;

(*b*) in sub-clause (*b*) of clause (4), after the word " buyer ", where it occurs for the second time, the words " any transferee without consideration or any transferee with notice of the non-payment ", shall be inserted; and after the words " on such amount or part " the words " from the date on which possession has been delivered " shall be added; and

(*c*) in sub-clause (*b*) of clause (6), the words " with notice of the payment " shall be omitted.

Substitution of new section for section 56, Act IV of 1882.

18. For section 56 of the said Act the following section shall be substituted, namely:—

Marshalling by subsequent purchaser.

" 56. If the owner of two or more properties mortgages them to one person and then sells one or more of the properties to another person, the buyer is, in the absence of a contract to the contrary, entitled to have the mortgage-debt satisfied out of the property or properties not sold to him, so far as the same will extend, but not so as to prejudice the rights of the mortgagee or persons claiming under him or of any other person who has for consideration acquired an interest in any of the properties."

Amendment of section 58, Act IV of 1882.

19. In section 58 of the said Act,—

(*a*) to clause (*c*) the following proviso shall be added, namely:—

" Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale ";

(*b*) in clause (*d*)—

(*i*) after the words " Where the mortgagor delivers possession " the words " or expressly or by implication binds himself to deliver possession " shall be inserted;

(*ii*) for the words "and to appropriate them", the words "or any part of such rents and profits and to appropriate the same" shall be substituted; and

(*iii*) after the words "or partly in lieu of interest", for the word "and" the word "or" shall be substituted; and

(*c*) after clause (*c*) the following clauses shall be added, namely:—

"(*f*) Where a person in any of the following towns, namely, the towns of Calcutta, Madras, Bombay, Karachi, Rangoon, Moulmein, Bassein and Akyab, and in any other town which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf, delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds.

(*g*) A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title-deeds within the meaning of this section is called an anomalous mortgage."

Amendment of section 59, Act IV of 1882.

20. In section 59 of the said Act,—

(*a*) after the words "a mortgage", where they first occur, the words "other than a mortgage by deposit of title-deeds" shall be inserted; and

(*b*) the third paragraph beginning with the words "Nothing in this section" and ending with the words "a security thereon" shall be omitted.

Insertion of new section 59A in Act IV of 1882.

21. After section 59 of the said Act the following section shall be inserted, namely:—

References to mortgagors and mortgagees to include persons deriving title from them.

"59A. Unless otherwise expressly provided, references in this Chapter to mortgagors and mortgagees shall be deemed to include references to persons deriving title from them respectively."

Amendment of section 60, Act IV of 1882.

22. In section 60 of the said Act,—

(*a*) for the word "payable" the word "due" shall be substituted;

(*b*) for the words "the mortgage-deed, if any, to the mortgagor" the following words shall be substituted, namely:—

"to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee";

(*c*) for the word "order" the word "decree" shall be substituted; and

(*d*) after the words "remaining due on the mortgage, except" the word "only" shall be inserted.

Insertion of new sections 60A and 60B in Act IV of 1882.

23. After section 60 of the said Act the following sections shall be inserted, namely:—

Obligation to transfer to third party instead of retransference to mortgagor.

"60A. (*1*) Where a mortgagor is entitled to redemption, then, on the fulfilment of any conditions on the fulfilment of which he would be entitled to require a re-transfer, he may require the mortgagee, instead of re-transferring the property, to assign the mortgage-debt and transfer the mortgaged property to such third person as the mortgagor may direct; and the mortgagee shall be bound to assign and transfer accordingly.

(*2*) The rights conferred by this section belong to and may be enforced by the mortgagor or by any encumbrancer notwithstanding an intermediate encumbrance; but the requisition of any encumbrancer shall prevail over a requisition of the mortgagor and, as between encumbrancers, the requisition of a prior encumbrancer shall prevail over that of a subsequent encumbrancer.

(*3*) The provisions of this section do not apply in the case of a mortgagee who is or has been in possession.

Right to inspection and production of documents.

60B. A mortgagor, as long as his right of redemption subsists, shall be entitled at all reasonable times, at his request and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of, or extracts from, documents of title relating to the mortgaged property which are in the custody or power of the mortgagee."

Substitution of new section for section 61, Act IV of 1882.

24. For section 61 of the said Act and the *Illustration* thereto the following section shall be substituted, namely:—

Right to redeem separately or simultaneously.

"61. A mortgagor who has executed two or more mortgages in favour of the same mortgagee shall, in the absence of a contract to the contrary, when the principal money of any two or more of the mortgages has become due, be entitled to redeem any one such mortgage separately, or any two or more of such mortgages together."

Amendment of section 62, Act IV of 1882.

25. In section 62 of the said Act,—

(*a*) after the word "property", where it first occurs, the words "together with the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee" shall be inserted;

(*b*) for the words "the interest of the principal money" the words "or any part thereof a part only of the mortgage-money" shall be substituted; and

(*c*) for the words "the principal money", where they occur for the second time, the words "the mortgage-money or the balance thereof" shall be substituted.

Amendment of section 63, Act IV of 1882.

26. In section 63 of the said Act, for the words "at the same rate of interest" the words "with interest at the same rate as is payable on the principal, or, where no such rate is fixed, at the rate of nine per cent. per annum" shall be substituted.

Insertion of new section 63A in Act IV of 1882.

27. After section 63 of the said Act the following section shall be inserted, namely:—

Improvements to mortgaged property.

"63A. (*1*) Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, been improved, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled to the improvement; and the mortgagor shall not, save only in cases provided for in sub-section (*2*), be liable to pay the cost thereof.

(*2*) Where any such improvement was effected at the cost of the mortgagee and was necessary to preserve the property from destruction or deterioration or was necessary to prevent the security from becoming insufficient, or was made in compliance with the lawful order of any public servant or public authority, the mortgagor shall, in the absence of a contract to the contrary, be liable to pay the proper cost thereof as an addition to the principal money with interest at the same rate as is payable on the principal, or, where no such rate is fixed, at the rate of nine per cent. per annum, and the profits, if any, accruing by reason of the improvement shall be credited to the mortgagor."

Amendment of section 64, Act IV of 1882.

28. In section 64 of the said Act, the words "for a term of years" shall be omitted.

Amendment of section 65, Act IV of 1882.

29. In section 65 of the said Act,—

(*a*) in clause (*d*), the words "for a term of years" shall be omitted; and

(*b*) the words "Nothing in clause (*c*), or in clause (*d*), so far as it relates to the payment of future rent, applies in the case of an usufructuary mortgage" shall be omitted.

Insertion of new section 65A in Act IV of 1882.

30. After section 65 of the said Act the following section shall be inserted, namely:—

Mortgagor's power to lease.

"65A. (*1*) Subject to the provisions of sub-section (*2*), a mortgagor, while lawfully in possession of the mortgaged property, shall have power to make leases thereof which shall be binding on the mortgagee.

(*2*) (*a*) Every such lease shall be such as would be made in the ordinary course of management of the property concerned, and in accordance with any local law, custom or usage.

(*b*) Every such lease shall reserve the best rent that can reasonably be obtained, and no premium shall be paid or promised and no rent shall be payable in advance.

(*c*) No such lease shall contain a covenant for renewal.

(*d*) Every such lease shall take effect from a date not later than six months from the date on which it is made.

(*e*) In the case of a lease of buildings, whether leased with or without the land on which they stand, the duration of the lease shall in no case exceed three years, and the lease shall contain a covenant for payment of the rent and a condition of re-entry on the rent not being paid within a time therein specified.

(*3*) The provisions of sub-section (*1*) apply only if and as far as a contrary intention is not expressed in the mortgage-deed; and the provisions of sub-section (*2*) may be varied or extended by the mortgage-deed and, as so varied and extended, shall, as far as may be, operate in like manner and with all like incidents, effects and consequences, as if such variations or extensions were contained in that sub-section."

Amendment of section 67, Act IV of 1882.

31. In section 67 of the said Act,—

(*a*) for the word "payable" the word "due" shall be substituted;

(*b*) for the words "an order", wherever they occur, the words "a decree" shall be substituted; and

(*c*) for clause (*a*) the following clause shall be substituted, namely:—

"(*a*) to authorise any mortgagee, other than a mortgagee by conditional sale or a mortgagee under an anomalous mortgage by the terms of which he is entitled to foreclose, to institute a suit for foreclosure, or an usufructuary mortgagee as such or a mortgagee by conditional sale as such to institute a suit for sale; or ".

Insertion of new section 67A in Act IV of 1882.

32. After section 67 of the said Act the following section shall be inserted, namely:—

Mortgagee when bound to bring one suit on several mortgages.

"67A. A mortgagee who holds two or more mortgages executed by the same mortgagor in respect of each of which he has a right to obtain the same kind of decree under section 67, and who sues to obtain such decree on any one of the mortgages, shall, in the absence of a contract to the contrary, be bound to sue on all the mortgages in respect of which the mortgage-money has become due."

33. For section 68 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 68, Act IV of 1882.

" 68. (*1*) The mortgagee has a right to sue for the mortgage-money in the following cases and no others, namely:— Right to sue for mortgage-money.

(*a*) where the mortgagor binds himself to repay the same;

(*b*) where, by any cause other than the wrongful act or default of the mortgagor or mortgagee, the mortgaged property is wholly or partially destroyed or the security is rendered insufficient within the meaning of section 66, and the mortgagee has given the mortgagor a reasonable opportunity of providing further security enough to render the whole security sufficient, and the mortgagor has failed to do so;

(*c*) where the mortgagee is deprived of the whole or part of his security by or in consequence of the wrongful act or default of the mortgagor;

(*d*) where, the mortgagee being entitled to possession of the mortgaged property, the mortgagor fails to deliver the same to him, or to secure the possession thereof to him without disturbance by the mortgagor or any person claiming under a title superior to that of the mortgagor:

Provided that, in the case referred to in clause (*a*), a transferee from the mortgagor or from his legal representative shall not be liable to be sued for the mortgage-money.

(*2*) Where a suit is brought under clause (*a*) or clause (*b*) of sub-section (*1*), the Court may, at its discretion, stay the suit and all proceedings therein, notwithstanding any contract to the contrary, until the mortgagee has exhausted all his available remedies against the mortgaged property or what remains of it, unless the mortgagee abandons his security and, if necessary, re-transfers the mortgaged property."

34. In section 69 of the said Act,— Amendment of section 69, Act IV of 1882.

(*a*) the first paragraph beginning with the words " A power conferred by the mortgage-deed " and ending with the words " specify in this behalf " shall be numbered as sub-section (*1*);

(*b*) in the sub-section so numbered,—

(*i*) for the words " A power conferred by the mortgage-deed on the mortgagee, or on any person on his behalf, to sell or concur in selling, in default of payment of the mortgage-money, the mortgaged property, or any part thereof, without the intervention of the Court, is valid in the

following cases and in no others, namely:—" the following words shall be substituted, namely:—

"Notwithstanding anything contained in the Trustees' and Mortgagees' Powers Act, 1866, a mortgagee, or any person acting on his behalf, shall, subject to the provisions of this section, have power to sell or concur in selling the mortgaged property, or any part thereof, in default of payment of the mortgage-money, without the intervention of the Court, in the following cases and in no others, namely:—"; XXVIII of 1900.

(*ii*) in each of clauses (*b*) and (*c*), after the word "where" the words "a power of sale without the intervention of the Court is expressly conferred on the mortgagee by the mortgage-deed, and" shall be inserted; and

(*iii*) in clause (*c*), for the word "is" the words "was, on the date of the execution of the mortgage-deed", shall be substituted, and after the words "any other town" the words "or area" shall be inserted;

(*c*) the word "But" in the beginning of the second paragraph shall be omitted, and the said paragraph ending with the words "after becoming due", shall be numbered as sub-section (*2*), and clauses (1) and (2) of the said paragraph shall be lettered as (*a*) and (*b*), respectively;

(*d*) the third paragraph beginning with the words "When a sale has been made" and ending with the words "exercising the power" shall be numbered as sub-section (*3*);

(*e*) the fourth paragraph beginning with the words "The money which is received" and ending with the words "of the sale thereof" shall be numbered as sub-section (*4*);

(*f*) for the fifth paragraph beginning with the words "Nothing in the former part" and ending with the words "comes into force" the following sub-section shall be substituted, namely:—

"(*5*) Nothing in this section or in section 69A applies to powers conferred before the first day of July, 1882"; and

(*g*) the last paragraph beginning with the words "The powers and provisions" and ending with the words "local official Gazette" shall be omitted.

Insertion of new section 69A in Act IV of 1882.

35. After section 69 of the said Act the following section shall be inserted, namely:—

Appointment of receiver.

"69A. (*1*) A mortgagee having the right to exercise a power of sale under section 69 shall, subject to the provisions of sub-section (*2*), be

entitled to appoint, by writing signed by him or on his behalf, a receiver of the income of the mortgaged property or any part thereof.

(*2*) Any person who has been named in the mortgage-deed and is willing and able to act as receiver may be appointed by the mortgagee.

If no person has been so named, or if all persons named are unable or unwilling to act, or are dead, the mortgagee may appoint any person to whose appointment the mortgagor agrees; failing such agreement, the mortgagee shall be entitled to apply to the Court for the appointment of a receiver, and any person appointed by the Court shall be deemed to have been duly appointed by the mortgagee.

A receiver may at any time be removed by writing signed by or on behalf of the mortgagee and the mortgagor, or by the Court on application made by either party and on due cause shown.

A vacancy in the office of receiver may be filled in accordance with the provisions of this sub-section.

(*3*) A receiver appointed under the powers conferred by this section shall be deemed to be the agent of the mortgagor; and the mortgagor shall be solely responsible for the receiver's acts or defaults, unless the mortgage-deed otherwise provides or unless such acts or defaults are due to the improper intervention of the mortgagee.

(*4*) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by suit, execution or otherwise, in the name either of the mortgagor or of the mortgagee to the full extent of the interest which the mortgagor could dispose of, and to give valid receipts accordingly for the same, and to exercise any powers which may have been delegated to him by the mortgagee in accordance with the provisions of this section.

(*5*) A person paying money to the receiver shall not be concerned to inquire if the appointment of the receiver was valid or not.

(*6*) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges and expenses incurred by him as receiver, a commission at such rate not exceeding five per cent. on the gross amount of all money received as is specified in his appointment, and, if no rate is so specified, then at the rate of five per cent. on that gross amount, or at such other rate as the Court thinks fit to allow, on application made by him for that purpose.

(*7*) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, if any, to which the mortgagee might have insured, and keep insured against loss or damage by fire, out of the money received by him, the mortgaged property or any part thereof being of an insurable nature.

(*8*) Subject to the provisions of this Act as to the application of insurance money, the receiver shall apply all money received by him as follows, namely:—

(*i*) in discharge of all rents, taxes, land revenue, rates and outgoings whatever affecting the mortgaged property;

(*ii*) in keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver;

(*iii*) in payment of his commission, and of the premiums on fire, life or other insurances, if any, properly payable under the mortgage-deed or under this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee;

(*iv*) in payment of the interest falling due under the mortgage;

(*v*) in or towards discharge of the principal money, if so directed in writing by the mortgagee;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

(*9*) The provisions of sub-section (*1*) apply only if and as far as a contrary intention is not expressed in the mortgage-deed; and the provisions of sub-sections (*3*) to (*8*) inclusive may be varied or extended by the mortgage-deed, and, as so varied or extended, shall, as far as may be, operate in like manner and with all the like incidents, effects and consequences, as if such variations or extensions were contained in the said sub-sections.

(*10*) Application may be made, without the institution of a suit, to the Court for its opinion, advice or direction on any present question respecting the management or administration of the mortgaged property, other than questions of difficulty or importance not proper in the opinion of the Court for summary disposal. A copy of such application shall be served upon, and the hearing thereof may be attended by, such of the persons interested in the application as the Court may think fit.

The costs of every application under this sub-section shall be in the discretion of the Court.

(*11*) In this section, " the Court " means the Court which would have jurisdiction in a suit to enforce the mortgage ".

Amendment of section 71, Act IV of 1882.

36. In section 71 of the said Act, the words " for a term of years " shall be omitted.

37. In section 72 of the said Act,— Amendment of section 72, Act IV of 1882.

(*a*) for the words " When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he " the words " A mortgagee " shall be substituted;

(*b*) clause (*a*) shall be omitted;

(*c*) in clause (*b*), for the words "its preservation " the words " the preservation of the mortgaged property " shall be substituted;

(*d*) after the words " nine per cent. per annum " the following proviso shall be inserted, namely:—

" Provided that the expenditure of money by the mortgagee under clause (*b*) or clause (*c*) shall not be deemed to be necessary unless the mortgagor has been called upon and has failed to take proper and timely steps to preserve the property or to support the title "; and

(*e*) for the words " a charge on the mortgaged property, in addition to the principal money, with the same priority and with interest at the same rate " the following shall be substituted, namely:—

" added to the principal money with interest at the same rate as is payable on the principal money or, where no such rate is fixed, at the rate of nine per cent. per annum."

38. For section 73 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 73, Act IV of 1882.

" 73. (*1*) Where the mortgaged property or any part thereof or any interest therein is sold owing to failure to pay arrears of revenue or other charges of a public nature or rent due in respect of such property, and such failure did not arise from any default of the mortgagee, the mortgagee shall be entitled to claim payment of the mortgage-money, in whole or in part, out of any surplus of the sale-proceeds remaining after payment of the arrears and of all charges and deductions directed by law. Right to proceeds of revenue sale or compensation on acquisition.

(*2*) Where the mortgaged property or any part thereof or any interest therein is acquired under the Land Acquisition Act, 1894, or any other enactment for the time being in force providing for the compulsory acquisition of immoveable property, the mortgagee shall be entitled to claim payment of the mortgage-money, in whole or in part, out of the amount due to the mortgagor as compensation.

(*3*) Such claims shall prevail against all other claims except those of prior encumbrancers, and may be enforced notwithstanding that the principal money on the mortgage has not become due."

Omission of sections 74 and 75, Act IV of 1882.

39. Section 74 and section 75 of the said Act shall be omitted.

Amendment of section 76, Act IV of 1882.

40. In section 76 of the said Act,—

(*a*) in clause (*c*), after the words " charges of a public nature " the words " and all rent " shall be inserted;

(*b*) in clause (*h*), after the words " deducting the expenses " the words " properly incurred for the management of the property and the collection of rents and profits and the other expenses " shall be inserted, and the words " on the mortgage-money " shall be omitted; and

(*c*) in clause (*i*), the word " gross " shall be omitted, and after the words " as the case may be " the following shall be inserted, namely:—

"and shall not be entitled to deduct any amount therefrom on account of any expenses incurred after such date or time in connection with the mortgaged property."

Omission of section 80, Act IV of 1882.

41. Section 80 of the said Act shall be omitted.

Substitution of new section for section 81, Act IV of 1882.

42. For section 81 of the said Act the following section shall be substituted, namely:—

Marshalling securities.

" 81. If the owner of two or more properties mortgages them to one person and then mortgages one or more of the properties to another person, the subsequent mortgagee is, in the absence of a contract to the contrary, entitled to have the prior mortgage debt satisfied out of the property or properties not mortgaged to him, so far as the same will extend, but not so as to prejudice the rights of the prior mortgagee or of any other person who has for consideration acquired an interest in any of the properties."

Amendment of section 82, Act IV of 1882.

43. In section 82 of the said Act,—

(*a*) for the first paragraph beginning with the words " Where several properties ", and ending with the words " date of the mortgage " the following shall be substituted, namely:—

" Where property subject to a mortgage belongs to two or more persons having distinct and separate rights of ownership therein, the different shares in or parts of such property owned by such persons are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, and, for the purpose of determining the rate at which each such share or part shall contribute, the value thereof

shall be deemed to be its value at the date of the mortgage after deduction of the amount of any other mortgage or charge to which it may have been subject on that date"; and

(*b*) in the third paragraph, for the word "second" the word "subsequent" shall be substituted.

Amendment of section 83 Act IV of 1882.

44. In section 83 of the said Act,—

(*a*) for the words "has become payable" the words "payable in respect of any mortgage has become due" shall be substituted;

(*b*) for the words "if then in his possession or power" the words "and all documents in his possession or power relating to the mortgaged property" shall be substituted;

(*c*) after the word "mortgage-deed", where it occurs for the second time, the words "and all such other documents" shall be inserted; and

(*d*) the following paragraph shall be added after the words "such other person as aforesaid", namely:—

"Where the mortgagee is in possession of the mortgaged property, the Court shall, before paying to him the amount so deposited, direct him to deliver possession thereof to the mortgagor and at the cost of the mortgagor either to retransfer the mortgaged property to the mortgagor or to such third person as the mortgagor may direct or to execute and (where the mortgage has been effected by a registered instrument) have registered an acknowledgment in writing that any right in derogation of the mortgagor's interest transferred to the mortgagee has been extinguished."

Amendment of section 84 Act IV of 1882.

45. In section 84 of the said Act,—

(*a*) after the words "from the date of the tender or" the words "in the case of a deposit, where no previous tender of such amount has been made," shall be inserted;

(*b*) for the words "as the case may be" the following shall be substituted, namely:—

"and the notice required by section 83 has been served on the mortgagee:

Provided that, where the mortgagor has deposited such amount without having made a previous tender thereof and has subsequently withdrawn the same or any part thereof, interest on the principal money shall be payable from the date of such withdrawal"; and

(*c*) after the words " tender of the mortgage-money " the words " and such notice has not been given before the making of the tender or deposit, as the case may be " shall be added.

Substitution of new section for section 91, Act IV of 1882.

46. For section 91 of the said Act the following section shall be substituted, namely:—

Persons who may sue for redemption.

" 91. Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of, the mortgaged property, namely:—

(*a*) any person (other than the mortgagee of the interest sought to be redeemed) who has any interest in, or charge upon, the property mortgaged or in or upon the right to redeem the same;

(*b*) any surety for the payment of the mortgage-debt or any part thereof; or

(*c*) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property."

Insertion of new sections 92, 93 and 94 in Act IV of 1882.

47. After section 91 of the said Act the following sections shall be inserted, namely:—

Subrogation.

" 92. Any of the persons referred to in section 91 (other than the mortgagor) and any co-mortgagor shall, on redeeming property subject to the mortgage, have, so far as regards redemption, foreclosure or sale of such property, the same rights as the mortgagee whose mortgage he redeems may have against the mortgagor or any other mortgagee.

The right conferred by this section is called the right of subrogation, and a person acquiring the same is said to be subrogated to the rights of the mortgagee whose mortgage he redeems.

A person who has advanced to a mortgagor money with which the mortgage has been redeemed shall be subrogated to the rights of the mortgagee whose mortgage has been redeemed, if the mortgagor has by a registered instrument agreed that such persons shall be so subrogated.

Nothing in this section shall be deemed to confer a right of subrogation on any person unless the mortgage in respect of which the right is claimed has been redeemed in full.

Prohibition of tacking.

93. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security; and, except in the case provided for by section 79, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

94. Where a property is mortgaged for successive debts to successive mortgagees, a mesne mortgagee has the same rights against mortgagees posterior to himself as he has against the mortgagor." Rights of mesne mortgagee.

48. For section 95 of the said Act the following sections shall be substituted, namely:— Substitution of new sections for section 95, Act IV of 1882.

" 95. Where one of several mortgagors redeems the mortgaged property, he shall, in enforcing his right of subrogation under section 92 against his co-mortgagors, be entitled to add to the mortgage-money recoverable from them such proportion of the expenses properly incurred in such redemption as is attributable to their share in the property. Right of redeeming co-mortgagor to expenses.

96. The provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to a mortgage by deposit of title-deeds." Mortgage by deposit of title-deeds.

49. In section 98 of the said Act, for the words " a mortgage not being a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage or an English mortgage or a combination of the first and third, or the second and third, of such forms ", the words " an anomalous mortgage " shall be substituted. Amendment of section 98, Act IV of 1882.

50. In section 100 of the said Act,— Amendment of section 100, Act IV of 1882.

(*a*) for the words " as to a mortgagor shall, so far as may be, apply to the owner of such property, and the provisions of sections 81 and 82 shall, so far as may be, apply to the person having such charge " the words " which apply to a simple mortgage shall, so far as may be, apply to such charge ", shall be substituted; and

(*b*) after the words " in the execution of his trust " the following words shall be added, namely:—

" and, save as otherwise expressly provided by any law for the time being in force, no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge."

51. For section 101 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 101, Act IV of 1882.

" 101. Any mortgagee of, or person having a charge upon, immoveable property, or any transferee from such mortgagee or charge-holder, may purchase or otherwise acquire the rights in the property of the mortgagor or owner, as the case may be, without thereby causing the mortgage or charge to be merged as between himself and any subsequent No merger in case of subsequent encumbrance.

mortgagee of, or person having a subsequent charge upon, the same property; and no such subsequent mortgagee or charge-holder shall be entitled to foreclose or sell such property without redeeming the prior mortgage or charge, or otherwise than subject thereto."

Amendment of section 102, Act IV of 1882.

52. In section 102 of the said Act,—

(*a*) for the words "Where the person or agent on whom such notice should be served cannot be found in the said district, or is unknown" the words "Where no person or agent on whom such notice should be served can be found or is known" shall be substituted;

(*b*) after the words "and any notice served in compliance with such direction shall be deemed sufficient" the following proviso shall be inserted, namely:—

"Provided that, in the case of a notice required by section 83, in the case of a deposit, the application shall be made to the Court in which the deposit has been made";

(*c*) for the words "Where the person or agent to whom such tender should be made cannot be found within the said district, or is unknown" the words "Where no person or agent to whom such tender should be made can be found or is known" shall be substituted; and

(*d*) for the words "in such Court as last aforesaid" the words "in any Court in which a suit might be brought for redemption of the mortgaged property" shall be substituted.

Amendment of section 103, Act IV of 1882.

53. In section 103 of the said Act,—

(*a*) after the words "such notice may be served", the words "on or by" shall be inserted; and

(*b*) for the words and figures "Chapter XXXI of the Code of Civil Procedure" the words and figures "Order XXXII in the First Schedule to the Code of Civil Procedure, 1908", V of 1908. shall be substituted.

Amendment of section 106, Act IV of 1882.

54. In section 106 of the said Act, for the words "tendered or delivered either personally to the party who is intended to be bound by it", the following shall be substituted, namely:—

"either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party".

Amendment of section 107, Act IV of 1882.

55. In section 107 of the said Act, after the words "by delivery of possession", where they first occur, the following paragraph shall be inserted, namely:—

"Where a lease of immoveable property is made by a registered instrument, such instrument or, where there are more instruments than

one, each such instrument shall be executed by both the lessor and the lessee."

Amendment of section 108, Act IV of 1882.

56. In section 108 of the said Act,—

(*a*) in clause (*h*)—

(*i*) after the words "the lessee may" the words "even after the determination of the lease" shall be inserted; and

(*ii*) for the words "during the continuance of the lease", the words "whilst he is in possession of the property leased but not afterwards", shall be substituted; and

(*b*) in clause (*o*), after the words "or fell" the words "or sell" shall be inserted, and after the words "or damage buildings", the words "belonging to the lessor or" shall be inserted.

Amendment of section 111, Act IV of 1882.

57. In clause (*g*) of section 111 of the said Act,—

(*a*) the words "or the lease shall become void" shall be omitted;

(*b*) after the words "title in himself" the following shall be inserted, namely:—

"or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter on the happening of such event";

(*c*) for the words "either case" the words "any of these cases" shall be substituted; and

(*d*) for the words "does some act showing" the words "gives notice in writing to the lessee of" shall be substituted.

Insertion of new section 114A in Act IV of 1882.

58. After section 114 of the said Act the following section shall be inserted, namely:—

Relief against forfeiture in certain other cases.

"114A. Where a lease of immoveable property has determined by forfeiture for a breach of an express condition which provides that on breach thereof the lessor may re-enter, no suit for ejectment shall lie unless and until the lessor has served on the lessee a notice in writing—

(*a*) specifying the particular breach complained of; and

(*b*) if the breach is capable of remedy, requiring the lessee to remedy the breach;

and the lessee fails, within a reasonable time from the date of the service of the notice, to remedy the breach, if it is capable of remedy.

Nothing in this section shall apply to an express condition against the assigning, under-letting, parting with the possession, or disposing, of the property leased, or to an express condition relating to forfeiture in case of non-payment of rent."

Substitution of new section for section 119, Act IV of 1882.

59. For section 119 of the said Act the following section shall be substituted, namely:—

Right of party deprived of thing received in exchange.

"119. If any party to an exchange or any person claiming through or under such party is by reason of any defect in the title of the other party deprived of the thing or any part of the thing received by him in exchange, then, unless a contrary intention appears from the terms of the exchange, such other party is liable to him or any person claiming through or under him for loss caused thereby, or at the option of the person so deprived, for the return of the thing transferred, if still in the possession of such other party or his legal representative or a transferee from him without consideration."

Amendment of section 128, Act IV of 1882.

60. In section 128 of the said Act, after the words "debts due by" the words "and liabilities of" shall be inserted.

Amendment of section 129, Act IV of 1882.

61. In section 129 of the said Act, the words "or, save as provided by section 123, any rule of Hindu or Buddhist law" shall be omitted.

Amendment of section 130, Act IV of 1882.

62. In section 130 of the said Act,—

(*a*) after the words "The transfer of an actionable claim" the words "whether with or without consideration" shall be inserted; and

(*b*) the words "and notwithstanding anything contained in section 123" shall be omitted.

Saving clause.

63. Nothing in any of the following provisions of this Act, namely, sections 3, 4, 9, 10, 15, 18, 19, 27, 30, clause (*c*) of section 31, sections 32, 33, 34, 35, 46, 52, 55, 57, 58, 59, 61 and 62 shall be deemed in any way to affect—

(*a*) the terms or incidents of any transfer of property made or effected before the first day of April, 1930,

(*b*) the validity, invalidity, effect or consequences of anything already done or suffered before the aforesaid date,

(*c*) any right, title, obligation or liability already acquired, accrued, or incurred before such date, or

(*d*) any remedy or proceeding in respect of such right, title, obligation or liability: and nothing in any other provision of this Act shall render invalid or in any way affect anything already done before the first day of April, 1930, in any proceeding pending in a Court on that date: and any such remedy and any such proceeding as is herein referred to may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

ACT No. XXI OF 1929.[1]

[*4th October, 1929.*]

An Act to supplement the Transfer of Property (Amendment) Act, 1929.

WHEREAS by reason of the passing of the Transfer of Property (Amendment) Act, 1929, it is expedient that certain amendments should be made in certain other enactments; It is hereby enacted as follows:—

XX of 1929.

1. (*1*) This Act may be called the Transfer of Property (Amendment) Supplementary Act, 1929. Short title and commencement.

(*2*) It shall come into force on the first day of April, 1930.

2. For the proviso to section 8 of the Married Women's Property Act, 1874, the following proviso shall be substituted, namely:— Amendment of section 8, Act III of 1874.

III of 1874.

"Provided that nothing herein contained shall—

(*a*) entitle such person to recover anything by attachment and sale or otherwise out of any property which has been transferred to a woman or for her benefit on condition that she shall have no power during her marriage to transfer or charge the same or her beneficial interest therein, or

(*b*) affect the liability of a husband for debts contracted by his wife's agency expressed or implied."

I of 1877.

3. After section 27 of the Specific Relief Act, 1877, the following section shall be inserted, namely:— Insertion of new section 27A in Act I of 1877.

"27A. Subject to the provisions of this Chapter, where a contract to lease immoveable property is made in writing signed by the parties thereto or on their behalf, either party may, notwithstanding that the contract, though required to be registered, has not been registered, sue the other for specific performance of the contract if,— Specific performance in case of part performance of contract to lease.

(*a*) where specific performance is claimed by the lessor, he has delivered possession of the property to the lessee in part performance of the contract; and

(*b*) where specific performance is claimed by the lessee, he has, in part performance of the contract, taken possession of the property, or, being already in possession, continues in possession in part performance of the contract, and has done some act in furtherance of the contract:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 93; for Report of Special Committee, *see ibid*, p. 40; for Report of Select Committee, *see ibid*, p. 126.

The Act has been declared in force with modifications in the Sonthal Parganas by s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1930, Pt. II, p. 433.

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.

This section applies to contracts to lease executed after the first day of April, 1930."

Substitution of new rules for rules 2 to 8, Order XXXIV, Schedule I, Act V of 1908.

4. In Order XXXIV in the First Schedule to the Code of Civil Procedure, 1908, for rules 2 to 8 the following rules shall be substituted, namely:— V of 1908.

Preliminary decree in foreclosure suit.

"2. (*1*) In a suit for foreclosure, if the plaintiff succeeds, the Court shall pass a preliminary decree—

(*a*) ordering that an account be taken of what was due to the plaintiff at the date of such decree for—

(*i*) principal and interest on the mortgage,

(*ii*) the costs of suit, if any, awarded to him, and

(*iii*) other costs, charges and expenses properly incurred by him up to that date in respect of his mortgage-security, together with interest thereon; or

(*b*) declaring the amount so due at that date; and

(*c*) directing—

(*i*) that, if the defendant pays into Court the amount so found or declared due on or before such date as the Court may fix within six months from the date on which the Court confirms and countersigns the account taken under clause (*a*), or from the date on which such amount is declared in Court under clause (*b*), as the case may be, and thereafter pays such amount as may be adjudged due in respect of subsequent costs, charges and expenses as provided in rule 10, together with subsequent interest on such sums respectively as provided in rule 11, the plaintiff shall deliver up to the defendant, or to such person as the defendant appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the defendant at his cost free from the mortgage and from all incumbrances created by the plaintiff or any person claiming under him, or, where the plaintiff claims by derived title, by those under whom he claims, and shall also, if necessary, put the defendant in possession of the property; and

(*ii*) that, if payment of the amount found or declared due under or by the preliminary decree is not made on or before the date so fixed, or the defendant fails to pay, within such

time as the Court may fix, the amount adjudged due in respect of subsequent costs, charges, expenses and interest, the plaintiff shall be entitled to apply for a final decree debarring the defendant from all right to redeem the property.

(*2*) The Court may, on good cause shown and upon terms to be fixed by the Court, from time to time, at any time before a final decree is passed, extend the time fixed for the payment of the amount found or declared due under sub-rule (*1*) or of the amount adjudged due in respect of subsequent costs, charges, expenses and interest.

(*3*) Where, in a suit for foreclosure, subsequent mortgagees or persons deriving title from, or subrogated to the rights of, any such mortgagees are joined as parties, the preliminary decree shall provide for the adjudication of the respective rights and liabilities of the parties to the suit in the manner and form set forth in Form No. 9 or Form No. 10, as the case may be, of Appendix D with such variations as the circumstances of the case may require.

Final decree in foreclosure suit.

3. (*1*) Where, before a final decree debarring the defendant from all right to redeem the mortgaged property has been passed, the defendant makes payment into Court of all amounts due from him under sub-rule (*1*) of rule 2, the Court shall, on application made by the defendant in this behalf, pass a final decree—

(*a*) ordering the plaintiff to deliver up the documents referred to in the preliminary decree,

and, if necessary,—

(*b*) ordering him to re-transfer at the cost of the defendant the mortgaged property as directed in the said decree,

and, also, if necessary,—

(*c*) ordering him to put the defendant in possession of the property.

(*2*) Where payment in accordance with sub-rule (*1*) has not been made, the Court shall, on application made by the plaintiff in this behalf, pass a final decree declaring that the defendant and all persons claiming through or under him are debarred from all right to redeem the mortgaged property and also, if necessary, ordering the defendant to put the plaintiff in possession of the property.

(*3*) On the passing of a final decree under sub-rule (*2*), all liabilities to which the defendant is subject in respect of the mortgage or on account of the suit shall be deemed to have been discharged.

Preliminary decree in suit for sale.

4. (*1*) In a suit for sale, if the plaintiff succeeds, the Court shall pass a preliminary decree to the effect mentioned in clauses (*a*), (*b*) and (*c*) (*i*) of sub-rule (*1*) of rule 2, and further directing that, in default of the defendant paying as therein mentioned, the plaintiff shall be entitled to apply for a final decree directing that the mortgaged property

or a sufficient part thereof be sold, and the proceeds of the sale (after deduction therefrom of the expenses of the sale) be paid into Court and applied in payment of what has been found or declared under or by the preliminary decree due to the plaintiff, together with such amount as may have been adjudged due in respect of subsequent costs, charges, expenses and interest, and the balance, if any, be paid to the defendant or other persons entitled to receive the same.

(*2*) The Court may, on good cause shown and upon terms to be fixed by the Court, from time to time, at any time before a final decree for sale is passed, extend the time fixed for the payment of the amount found or declared due under sub-rule (*1*) or of the amount adjudged due in respect of subsequent costs, charges, expenses and interest.

Power to decree sale in foreclosure suit.

(*3*) In a suit for foreclosure in the case of an anomalous mortgage, if the plaintiff succeeds, the Court may, at the instance of any party to the suit or of any other person interested in the mortgage-security or the right of redemption, pass a like decree (in lieu of a decree for foreclosure) on such terms as it thinks fit, including the deposit in Court of a reasonable sum fixed by the Court to meet the expenses of the sale and to secure the performance of the terms.

(*4*) Where, in a suit for sale or a suit for foreclosure in which sale is ordered, subsequent mortgagees or persons deriving title from, or subrogated to the rights of, any such mortgagees are joined as parties, the preliminary decree referred to in sub-rule (*1*) shall provide for the adjudication of the respective rights and liabilities of the parties to the suit in the manner and form set forth in Form No. 9, Form No. 10 or Form No. 11, as the case may be, of Appendix D with such variations as the circumstances of the case may require.

Final decree in suit for sale.

5. (*1*) Where, on or before the day fixed or at any time before the confirmation of a sale made in pursuance of a final decree passed under sub-rule (*3*) of this rule, the defendant makes payment into Court of all amounts due from him under sub-rule (*1*) of rule 4, the Court shall, on application made by the defendant in this behalf, pass a final decree or, if such decree has been passed, an order—

(*a*) ordering the plaintiff to deliver up the documents referred to in the preliminary decree,

and, if necessary,—

(*b*) ordering him to transfer the mortgaged property as directed in the said decree,

and, also, if necessary,—

(*c*) ordering him to put the defendant in possession of the property.

(*2*) Where the mortgaged property or part thereof has been sold in pursuance of a decree passed under sub-rule (*3*) of this rule, the Court shall not pass an order under sub-rule (*1*) of this rule, unless the

defendant, in addition to the amount mentioned in sub-rule (*1*), deposits in Court for payment to the purchaser a sum equal to five per cent. of the amount of the purchase-money paid into Court by the purchaser.

Where such deposit has been made, the purchaser shall be entitled to an order for repayment of the amount of the purchase-money paid into Court by him, together with a sum equal to five per cent. thereof.

(*3*) Where payment in accordance with sub-rule (*1*) has not been made, the Court shall, on application made by the plaintiff in this behalf, pass a final decree directing that the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale be dealt with in the manner provided in sub-rule (*1*) of rule 4.

Recovery of balance due on mortgage in suit for sale.

6. Where the net proceeds of any sale held under the last preceding rule are found insufficient to pay the amount due to the plaintiff, the Court, on application by him may, if the balance is legally recoverable from the defendant otherwise than out of the property sold, pass a decree for such balance.

Preliminary decree in redemption suit.

7. (*1*) In a suit for redemption, if the plaintiff succeeds, the Court shall pass a preliminary decree—

(*a*) ordering that an account be taken of what was due to the defendant at the date of such decree for—

(*i*) principal and interest on the mortgage,

(*ii*) the costs of suit, if any, awarded to him, and

(*iii*) other costs, charges and expenses properly incurred by him up to that date, in respect of his mortgage-security, together with interest thereon; or

(*b*) declaring the amount so due at that date; and

(*c*) directing—

(*i*) that, if the plaintiff pays into Court the amount so found or declared due on or before such date as the Court may fix within six months from the date on which the Court confirms and countersigns the account taken under clause (*a*), or from the date on which such amount is declared in Court under clause (*b*), as the case may be, and thereafter pays such amount as may be adjudged due in respect of subsequent costs, charges and expenses as provided in rule 10, together with subsequent interest on such sums respectively as provided in rule 11, the defendant shall deliver up to the plaintiff, or to such person as the plaintiff appoints, all documents in his possession or power relating to the mortgaged property, and shall, if so required, re-transfer the property to the plaintiff at his cost free from the mortgage and from all incumbrances created by the defendant or any person claiming under him, or, where the

defendant claims by derived title, by those under whom he claims, and shall also, if necessary, put the plaintiff in possession of the property; and

(*ii*) that, if payment of the amount found or declared due under or by the preliminary decree is not made on or before the date so fixed, or the plaintiff fails to pay, within such time as the Court may fix, the amount adjudged due in respect of subsequent costs, charges, expenses and interest, the defendant shall be entitled to apply for a final decree—

(*a*) in the case of a mortgage other than a usufructuary mortgage, a mortgage by conditional sale, or an anomalous mortgage the terms of which provide for foreclosure only and not for sale, that the mortgaged property be sold, or

(*b*) in the case of a mortgage by conditional sale or such an anomalous mortgage as aforesaid, that the plaintiff be debarred from all right to redeem the property.

(*2*) The Court may, on good cause shown and upon terms to be fixed by the Court, from time to time, at any time before the passing of a final decree for foreclosure or sale, as the case may be, extend the time fixed for the payment of the amount found or declared due under sub-rule (*1*) or of the amount adjudged due in respect of subsequent costs, charges, expenses and interest.

Final decree in redemption suit.

8. (*1*) Where, before a final decree debarring the plaintiff from all right to redeem the mortgaged property has been passed or before the confirmation of a sale held in pursuance of a final decree passed under sub-rule (*3*) of this rule, the plaintiff makes payment into Court of all amounts due from him under sub-rule (*1*) of rule 7, the Court shall, on application made by the plaintiff in this behalf, pass a final decree or, if such decree has been passed, an order—

(*a*) ordering the defendant to deliver up the documents referred to in the preliminary decree,

and, if necessary,—

(*b*) ordering him to re-transfer at the cost of the plaintiff the mortgaged property as directed in the said decree,

and, also, if necessary,—

(*c*) ordering him to put the plaintiff in possession of the property.

(*2*) Where the mortgaged property or a part thereof has been sold in pursuance of a decree passed under sub-rule (*3*) of this rule, the Court shall not pass an order under sub-rule (*1*) of this rule, unless the plaintiff, in addition to the amount mentioned in sub-rule (*1*), deposits in Court for payment to the purchaser a sum equal to five per cent. of the amount of the purchase-money paid into Court by the purchaser.

Where such deposit has been made, the purchaser shall be entitled to an order for repayment of the amount of the purchase-money paid into Court by him, together with a sum equal to five per cent. thereof.

(*3*) Where payment in accordance with sub-rule (*1*) has not been made, the Court shall, on application made by the defendant in this behalf,—

(*a*) in the case of a mortgage by conditional sale or of such an anomalous mortgage as is hereinbefore referred to in rule 7, pass a final decree declaring that the plaintiff and all persons claiming under him are debarred from all right to redeem the mortgaged property and, also, if necessary, ordering the plaintiff to put the defendant in possession of the mortgaged property; or

(*b*) in the case of any other mortgage, not being a usufructuary mortgage, pass a final decree that the mortgaged property or a sufficient part thereof be sold, and the proceeds of the sale (after deduction therefrom of the expenses of the sale) be paid into Court and applied in payment of what is found due to the defendant, and the balance, if any, be paid to the plaintiff or other persons entitled to receive the same."

Insertion of new rule 8A in Order XXXIV, Schedule I, Act V of 1908.

5. In Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, after rule 8 the following rule shall be inserted, namely:— V of 1908.

Recovery of balance due on mortgage in suit for redemption.

"8A. Where the net proceeds of any sale held under the last preceding rule are found insufficient to pay the amount due to the defendant, the Court, on application by him, may, if the balance is legally recoverable from the plaintiff otherwise than out of the property sold, pass a decree for such balance."

Substitution of new rules for rules 10 and 11 of Order XXXIV, Schedule I, Act V of 1908.

6. In Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, for rules 10 and 11 the following rules shall be substituted, namely:— V of 1908.

Costs of mortgagee subsequent to decree.

"10. In finally adjusting the amount to be paid to a mortgagee in case of a foreclosure, sale or redemption, the Court shall, unless in the case of costs of the suit the conduct of the mortgagee has been such as to disentitle him thereto, add to the mortgage-money such costs of the suit and other costs, charges and expenses as have been properly incurred by him since the date of the preliminary decree for foreclosure, sale or redemption up to the time of actual payment.

Payment of interest.

11. In any decree passed in a suit for foreclosure, sale or redemption, where interest is legally recoverable, the Court may order payment of interest to the mortgagee as follows, namely:—

(*a*) interest up to the date on or before which payment of the amount found or declared due is under the preliminary decree to be made by the mortgagor or other person redeeming the mortgage—

(*i*) on the principal amount found or declared due on the mortgage,—at the rate payable on the principal, or, where no such rate is fixed, at such rate as the Court deems reasonable,

(*ii*) on the amount of the costs of the suit awarded to the mortgagee,—at such rate as the Court deems reasonable from the date of the preliminary decree, and

(*iii*) on the amount adjudged due to the mortgagee for costs, charges and expenses properly incurred by the mortgagee in respect of the mortgage-security up to the date of the preliminary decree and added to the mortgage-money,—at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates, at nine per cent. per annum; and

(*b*) subsequent interest up to the date of realization or actual payment at such rate as the Court deems reasonable—

(*i*) on the aggregate of the principal sums specified in clause (*a*) and of the interest thereon as calculated in accordance with that clause; and

(*ii*) on the amount adjudged due to the mortgagee in respect of such further costs, charges and expenses as may be payable under rule 10."

Substitution of new rule for rule 15, Order XXXIV, Schedule I, Act V of 1908.

7. In Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, for rule 15 the following rule shall be substituted, namely:— V of 1908.

Mortgages by the deposit of title-deeds and charges.

"15. All the provisions contained in this Order which apply to a simple mortgage shall, so far as may be, apply to a mortgage by deposit of title deeds within the meaning of section 58, and to a charge within the meaning of section 100 of the Transfer of Property Act, 1882." IV of 1882.

Amendment of rule 1 of Order XLIII, Schedule I, Act V of 1908.

[1][**7A.** In clause (*o*) of rule 1 of Order XLIII of the First Schedule to the Code of Civil Procedure, 1908, for the words 'under rule 3 or rule 8' the words 'under rule 2, rule 4 or rule 7' shall be substituted.] V of 1908.

[1] This section was inserted by s. 2 of the Transfer of Property (Amendment) Supplementary Act, 1930 (16 of 1930).

Substitution of new Forms for Forms 3 to 11 in Appendix D, Schedule I, Act V of 1908.

V of 1908.

8. For Forms 3 to 11 in Appendix D to the First Schedule to the Code of Civil Procedure, 1908, the Forms set forth in the Schedule shall be substituted.

Amendment of Act IX of 1908.

[X of 1908.

9. In article No. 132 in the First Division of the First Schedule to the Indian Limitation Act, 1908, the following clause shall be added after clause (*b*) of the Explanation, namely:—

" and

(*c*) advances secured by mortgage by deposit of title-deeds."

Amendment of Act XVI of 1908.

XVI of 1908.

10. (*1*) In section 17 of the Indian Registration Act, 1908,—

(*a*) after clause (*d*) of sub-section (*1*) the following clause shall be added, namely:—

" (*e*) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property "; and

(*b*) in clause (*vi*) of sub-section (*2*), for the words " and any award " the words " except a decree or order expressed to be made on a compromise and comprising immoveable property other than that which is the subject-matter of the suit or proceeding " shall be substituted.

(*2*) In section 48 of the same Act, after the words " or followed by delivery of possession " the following words shall be added, namely:—

" and the same constitutes a valid transfer under any law for the time being in force:

Provided that a mortgage by deposit of title-deeds as defined in section 58 of the Transfer of Property Act, 1882, shall take effect against any mortgage-deed subsequently executed and registered which relates to the same property."

[V of 1882.

(*3*) In section 49 of the same Act—

(*a*) after the word and figures " section 17 " the words " or by any provision of the Transfer of Property Act, 1882 ", shall be inserted; and

[V of 1882.

(*b*) to that section the following proviso shall be added namely:—

" Provided that an unregistered document affecting immoveable property and required by this Act or the Transfer of Property Act, 1882, to be registered may be received as evidence of a contract in a suit for specific performance

IV of 1882.

under Chapter II of the Specific Relief Act, 1877, or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be effected by registered instrument." I of 1877. IV of 1882.

Amendment of Madras Act I of 1914.

11. In the Hindu Transfers and Bequests Act, 1914, for sections 3, 4 and 5 the following sections shall be substituted, namely:— Mad. Act I of 1914.

Disposition for the benefit of person not in existence.

" 3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

4. The limitations and provisions referred to in section 3 shall be the following, namely:—

(*a*) in respect of dispositions by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and IV of 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925." XXXIX of 1925.

Amendment of Act XV of 1916.

12. (*1*) In section 3 of the Hindu Disposition of Property Act, 1916,— XV of 1916.

(*a*) in clause (*a*), for the words and figures " sections 13, 14 and 20 " the word and figure " Chapter II " shall be substituted, and

(*b*) in clause (*b*), for the words and figures " sections 100 and 101 of the Indian Succession Act, 1865 " the words and figures " sections 113, 114, 115 and 116 of the Indian Succession Act, 1925 ", shall be substituted. X of 1865. XXXIX of 1925.

(*2*) Section 4 of the same Act shall be omitted.

Amendment of Act VIII of 1921.

13. In the Hindu Transfers and Bequests (City of Madras) Act, 1921, for sections 3, 4 and 5 the following sections shall be substituted, namely:— VIII of 1921.

Disposition for the benefit of person not in existence.

" 3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

4. The limitations and provisions referred to in section 3 shall be the following, namely:—

(*a*) in respect of disposition by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and IV of 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925." XXXIX of 1925.

XXXIX of 1925.

14. (*1*) In section 115 of the Indian Succession Act, 1925,— Amendment of Act XXXIX of 1925.

(*a*) for the words "wholly void" the words "void in regard to those persons only and not in regard to the whole class" shall be substituted;

(*b*) in *Illustration* (*i*), for the words "and, as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void" the following words shall be substituted, namely:—

"and in regard to those who do not attain the age of 25 within 18 years after A's death, but is operative in regard to the other children of A"; and

(*c*) in *Illustration* (*ii*), for the words "The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void" the following words shall be substituted, namely:—

"Although the mention of B, C and D does not prevent the bequest from being regarded as a bequest to a class, it is not wholly void. It is operative as regards any of the children B, C or D, who attains the age of 25 within 18 years after A's death."

(*2*) For section 116 of the same Act the following section shall be substituted, namely:—

"116. Where by reason of any of the rules contained in sections 113 and 114, any bequest in favour of a person or of a class of persons is void in regard to such person or the whole of such class, any bequest contained in the same will and intended to take effect after or upon failure of such prior bequest is also void." Bequest to take effect on failure of prior bequest.

(*3*) For section 117 of the same Act and the *Illustration* thereto the following section shall be substituted, namely:—

"117. (*1*) Where the terms of a will direct that the income arising from any property shall be accumulated either wholly or in part during any period longer than a period of eighteen years from the death of the testator, such direction shall, save as hereinafter provided, be void to the extent to which the period during which the accumulation is directed exceeds the aforesaid period, and at the end of such period of eighteen years the property and the income thereof shall be disposed of as if the period during which the accumulation has been directed to be made had elapsed. Effect of direction for accumulation.

(*2*) This section shall not affect any direction for accumulation for the purpose of—

(*i*) the payment of the debts of the testator or any other person taking any interest under the will, or

(*ii*) the provision of portions for children or remoter issue of the testator or of any other person taking any interest under the will, or

(*iii*) the preservation or maintenance of any property bequeathed;

and such direction may be made accordingly."

(*4*) In Schedule III to the same Act, after the figures and comma "116," the figures and comma "177." shall be inserted.

Savings.

15. (*1*) Save as provided in sub-section (*2*), nothing in this Act shall be deemed to affect—

(*a*) the terms or incidents of any transfer or disposition of property made or effected before the first day of April, 1930;

(*b*) the validity, invalidity, effect or consequences of anything already done or suffered before the aforesaid date;

(*c*) any right, title, obligation or liability already acquired, accrued or incurred before such date;

(*d*) any remedy or proceeding in respect of such right, title, obligation or liability; or

(*e*) anything done in the course of any proceeding pending in any Court on the aforesaid date;

and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

(*2*) Notwithstanding anything contained in section 9 of this Act, in the Presidency of Bombay and such other territories as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf, a suit by a mortgagee for foreclosure or sale on a mortgage by deposit of title-deeds may be instituted within two years from the date of the commencement of this Act, or within sixty years from the date when the money secured by the mortgage became due, whichever period expires first; and no such suit instituted within the said period of sixty years and pending at the date of the commencement of this Act, either in a Court of first instance or of appeal, shall be dismissed on the ground that the twelve years' rule of limitation is applicable.

SCHEDULE.

(*See section 8.*)

FORM No. 3.

Preliminary decree for foreclosure.

(Order XXXIV, rule 2.—Where accounts are directed to be taken.)

(TITLE.)

This suit coming on this day, etc.; It is hereby ordered and decreed that it be referred to as the Commissioner to take the accounts following:—

(*i*) an account of what is due on this date to the plaintiff for principal and interest on his mortgage mentioned in the

plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable);

(*ii*) an account of the income of the mortgaged property received up to this date by the plaintiff or by any other person by the order or for the use of the plaintiff or which without the wilful default of the plaintiff or such person might have been so received;

(*iii*) an account of all sums of money properly incurred by the plaintiff up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security, together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or, failing both such rates, at nine per cent. per annum);

(*iv*) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the plaintiff which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (*ii*) or adjudged due under clause (*iv*) above, together with interest thereon, shall first be adjusted against any sums paid by the plaintiff under clause (*iii*) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the plaintiff on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the day of , and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(*i*) that the defendant do pay into Court on or before the day of , or any later date up to which time for payment may be extended by the Court, such sum as the Court shall find due, and the sum of Rs. for the costs of the suit awarded to the plaintiff;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant, or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff shall be at liberty to apply to the Court for a final decree that the defendant shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 3A.

Preliminary decree for foreclosure.

(Order XXXIV, rule 2.—Where the Court declares the amount due.)

(TITLE.)

This suit coming on this day, etc.; It is hereby declared that the amount due to the plaintiff on his mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) properly incurred by the plaintiff in respect of the mortgage-security, together with interest thereon, and the sum of

Rs. for the costs of this suit awarded to the plaintiff, making in all the sum of Rs. .

2. And it is hereby ordered and decreed as follows:—

(*i*) that the defendant do pay into Court on or before the day of or any later date up to which time for payment may be extended by the Court of the said sum of Rs. ;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant, or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff may apply to the Court for a final decree that the defendant shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 4.

Final decree for foreclosure.

(Order XXXIV, rule 3.)

(TITLE.)

Upon reading the preliminary decree passed in this suit on the day of and further orders (if any) dated the day of

and the application of the plaintiff dated the day of for a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the defendant or any person on his behalf or any other person entitled to redeem the said mortgage:

It is hereby ordered and decreed that the defendant and all persons claiming through or under him be and they are hereby absolutely debarred and foreclosed of and from all right of redemption of and in the property in the aforesaid preliminary decree mentioned; *[and (*if the defendant be in possession of the said mortgaged property*) that the defendant shall deliver to the plaintiff quiet and peaceable possession of the said mortgaged property].

2. And it is hereby further declared that the whole of the liability whatsoever of the defendant up to this day arising from the said mortgage mentioned in the plaint or from this suit is hereby discharged and extinguished.

FORM No. 5.

Preliminary decree for sale.

(Order XXXIV, rule 4.—Where accounts are directed to be taken.)

(TITLE.)

This suit coming on this day, etc.; It is hereby ordered and decreed that it be referred to as the Commissioner to take the accounts following:—

(*i*) an account of what is due on this date to the plaintiff for principal and interest on his mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable);

(*ii*) an account of the income of the mortgaged property received up to this date by the plaintiff or by any other person by the order or for the use of the plaintiff or which without the wilful default of the plaintiff or such person might have been so received;

(*iii*) an account of all sums of money properly incurred by the plaintiff up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security, together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the

* Words not required to be deleted.

principal, or, failing both such rates, at nine per cent. per annum);

(*iv*) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the plaintiff which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (*ii*) or adjudged due under clause (*iv*) above, together with interest thereon, shall first be adjusted against any sums paid by the plaintiff under clause (*iii*), together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the plaintiff on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the day of , and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(*i*) that the defendant do pay into Court on or before the day of , or any later date up to which time for payment may be extended by the Court, such sum as the Court shall find due, and the sum of Rs. for the costs of the suit awarded to the plaintiff;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant, or to such person as he appoints, and the plaintiff shall, if so required, reconvey or re-transfer the said property free from the mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any

person under whom he claims and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made the mortgaged property or a sufficient part thereof shall be directed to be sold; and for the purposes of such sale the plaintiff shall produce before the Court, or such officer as it appoints, all documents in his possession or power relating to the mortgaged property.

6. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the plaintiff in respect of such costs of the suit, and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

7. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amount payable to the plaintiff as aforesaid, the plaintiff shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the defendant for the amount of the balance; and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 5A.

Preliminary decree for sale.

(Order XXXIV, rule 4.—When the Court declares the amount due.)

(TITLE.)

This suit coming on this day, etc.; It is hereby declared that the amount due to the plaintiff on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the

costs of the suit) properly incurred by the plaintiff in respect of the mortgage-security, together with interest thereon, and the sum of Rs. for the costs of the suit awarded to the plaintiff, making in all the sum of Rs. .

2. And it is hereby ordered and decreed as follows:—

(*i*) that the defendant do pay into Court on or before the day of , or any later date up to which time for payment may be extended by the Court, the said sum of Rs. ;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant, or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the plaintiff may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold; and for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

4. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the plaintiff in respect of such costs of the suit, and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to

the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other persons entitled to receive the same.

5. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amount payable to the plaintiff as aforesaid, the plaintiff shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the defendant for the amount of the balance; and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 6.

Final decree for sale.

(Order XXXIV, rule 5.)

(TITLE.)

Upon reading the preliminary decree passed in this suit on the day of and further orders (if any) dated the day of and the application of the plaintiff dated the day of for a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the defendant or any person on his behalf or any other person entitled to redeem the mortgage:

It is hereby ordered and decreed that the mortgaged property in the aforesaid preliminary decree mentioned or a sufficient part thereof be sold, and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

2. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into the Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under the aforesaid preliminary decree and under any further orders that may have been passed in this suit and in payment of any amount which the Court may have adjudged due to the plaintiff for such costs of the suit including the costs of this application and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the defendant or other person entitled to receive the same.

FORM No. 7.

Preliminary decree for redemption where on default of payment by mortgagor a decree for foreclosure is passed.

(Order XXXIV, rule 7.—Where accounts are directed to be taken.)

(TITLE.)

This suit coming on this day, etc.; It is hereby ordered and decreed that it be referred to as the Commissioner to take the accounts following:—

(*i*) an account of what is due on this date to the defendant for principal and interest on the mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable);

(*ii*) an account of the income of the mortgaged property received up to this date by the defendant or by any other person by order or for the use of the defendant or which without the wilful default of the defendant or such person might have been so received;

(*iii*) an account of all sums of money properly incurred by the defendant up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security, together with interest thereon (such interest to be computed at the rate agreed between the parties, or failing such rate, at the same rate as is payable on the principal, or, failing both such rates, at nine per cent. per annum);

(*iv*) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the defendant which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. It is hereby further ordered and decreed that any amount received under clause (*ii*) or adjudged due under clause (*iv*) above, together with interest thereon, shall be adjusted against any sums paid by the defendant under clause (*iii*) together with interest thereon, and the balance, if any, shall be added to the mortgage-money or, as the case may be, be debited in reduction of the amount due to the defendant on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the day of , and that upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(*i*) that the plaintiff do pay into Court on or before the day of , or any later date up to which time for payment may be extended by the Court such sum as the Court shall find due and the sum of Rs. for the costs of the suit awarded to the defendant;

(*ii*) that, on such payment, and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant shall be at liberty to apply to the Court for a final decree that the plaintiff shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 7A.

Preliminary decree for redemption where on default of payment by mortgagor a decree for sale is passed.

(Order XXXIV, rule 7.—Where accounts are directed to be taken.)

(TITLE.)

This suit coming on this day, etc.; It is hereby ordered and decreed that it be referred to as the Commissioner to take the accounts following:—

(*i*) an account of what is due on this date to the defendant for principal and interest on the mortgage mentioned in the plaint (such interest to be computed at the rate payable on the principal or where no such rate is fixed, at six per cent. per annum or at such rate as the Court deems reasonable);

(*ii*) an account of the income of the mortgaged property received up to this date by the defendant or by any other person by the order or for the use of the defendant or which without the wilful default of the defendant or such person might have been so received;

(*iii*) an account of all sums of money properly incurred by the defendant up to this date for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security together with interest thereon (such interest to be computed at the rate agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or, failing both such rates, at nine per cent. per annum);

(*iv*) an account of any loss or damage caused to the mortgaged property before this date by any act or omission of the defendant which is destructive of, or permanently injurious to, the property or by his failure to perform any of the duties imposed upon him by any law for the time being in force or by the terms of the mortgage-deed.

2. And it is hereby further ordered and decreed that any amount received under clause (*ii*) or adjudged due under clause (*iv*) above together with interest thereon, shall first be adjusted against any sums paid by the defendant under clause (*iii*) together with interest thereon, and the balance, if any, shall be added to the mortgage-money, or, as

the case may be, be debited in reduction of the amount due to the defendant on account of interest on the principal sum adjudged due and thereafter in reduction or discharge of the principal.

3. And it is hereby further ordered that the said Commissioner shall present the account to this Court with all convenient despatch after making all just allowances on or before the day of , and that, upon such report of the Commissioner being received, it shall be confirmed and countersigned, subject to such modification as may be necessary after consideration of such objections as the parties to the suit may make.

4. And it is hereby further ordered and decreed—

(*i*) that the plaintiff do pay into Court on or before the day of or any later date up to which time for payment may be extended by the Court, such sum as the Court shall find due and the sum of Rs. for the costs of the suit awarded to the defendant;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

5. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold; and for the purposes of such sale the defendant shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property.

6. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the

amount payable to the defendant under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the defendant in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the plaintiff or other persons entitled to receive the same.

7. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amount payable to the defendant as aforesaid, the defendant shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the plaintiff for the amount of the balance; and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 7B.

Preliminary decree for redemption where on default of payment by mortgagor a decree for foreclosure is passed.

(Order XXXIV, rule 7.—Where the Court declares the amount due.)

(TITLE.)

This suit coming on this day, etc.; It is hereby declared that the amount due to the defendant on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) properly incurred by the defendant in respect of the mortgage-security together with interest thereon, and the sum of Rs. for the costs of the suit awarded to the defendant, making in all the sum of Rs. .

2. And it is hereby ordered and decreed as follows:—

(*i*) that the plaintiff do pay into Court on or before the day of or any later date up to which time for payment may be extended by the Court the said sum of Rs. ;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or to such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims, and free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree that the plaintiff shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the defendant quiet and peaceable possession of the said property; and that the parties shall be at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 7C.

Preliminary decree for redemption where on default of payment by mortgagor a decree for sale is passed.

(Order XXXIV, rule 7.—Where the Court declares the amount due.)

(TITLE.)

This suit coming on this day, etc.; It is hereby declared that the amount due to the defendant on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses

(other than the costs of the suit) properly incurred by the defendant in respect of the mortgage-security together with interest thereon, and the sum of Rs. for the cost of this suit awarded to the defendant, making in all the sum of Rs. .

2. And it is hereby ordered and decreed as follows:—

(*i*) that the plaintiff do pay into Court on or before the day of or any later date up to which time the payment may be extended by the Court the said sum of Rs. ;

(*ii*) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the defendant shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff, or such person as he appoints, and the defendant shall, if so required, re-convey or re-transfer the said property to the plaintiff free from the said mortgage and clear of and from all incumbrances created by the defendant or any person claiming under him or any person under whom he claims and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property.

3. And it is hereby further ordered and decreed that, in default of payment as aforesaid, the defendant may apply to the Court for a final decree for the sale of the mortgaged property; and on such application being made, the mortgaged property or a sufficient part thereof shall be directed to be sold; and for the purposes of such sale the defendant shall produce before the Court or such officer as it appoints all documents in his possession or power relating to the mortgaged property.

4. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the defendant under this decree and under any further orders that may be passed in this suit and in payment of any amount which the Court may adjudge due to the defendant in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of

Civil Procedure, 1908, and that the balance, if any, shall be paid to the plaintiff or other persons entitled to the same.

5. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for the payment in full of the amount payable to the defendant as aforesaid, the defendant shall be at liberty (where such remedy is open to him under the terms of the mortgage and is not barred by any law for the time being in force) to apply for a personal decree against the plaintiff for the amount of the balance; and that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 7D.

Final decree for foreclosure in a redemption suit on default of payment by mortgagor.

(Order XXXIV, rule 8.)

(TITLE.)

Upon reading the preliminary decree in this suit on the day of and further orders (if any) dated the day of , and the application of the defendant dated the day of for a final decree and after hearing the parties, and it appearing that the payment as directed by the said decree and orders has not been made by the plaintiff or any person on his behalf or any other person entitled to redeem the mortgage:

It is hereby ordered and decreed that the plaintiff and all persons claiming through or under him be and they are hereby absolutely debarred and foreclosed of and from all right of redemption of and in the property in the aforesaid preliminary decree mentioned* [*and if the plaintiff be in possession of the said mortgaged property*] that the plaintiff shall deliver to the defendant quiet and peaceable possession of the said mortgaged property.

2. And it is hereby further declared that the whole of the liability whatsoever of the plaintiff up to this day arising from the said mortgage mentioned in the plaint or from this suit is hereby discharged and extinguished.

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* Words not required to be deleted.

FORM No. 7E.

Final decree for sale in a redemption suit on default of payment by mortgagor.

(Order XXXIV, rule 8.)

(TITLE.)

Upon reading the preliminary decree passed in this suit on the day of and further orders (if any) dated the day of , and the application of the defendant dated the day of for a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the plaintiff or any person on his behalf or any other person entitled to redeem the mortgage:

It is hereby ordered and decreed that the mortgaged property in the aforesaid preliminary decree mentioned or a sufficient part thereof be sold and that for the purposes of such sale the defendant shall produce before the Court, or such officer as it appoints, all documents in his possession or power relating to the mortgaged property.

2. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and shall be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the defendant under the aforesaid preliminary decree and under any further orders that may have been passed in this suit and in payment of any amount which the Court may have adjudged due to the defendant for such costs of this suit including the costs of this application and such costs, charges and expenses as may be payable under rule 10, together with the subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to the plaintiff or other persons entitled to receive the same.

FORM No. 7F.

Final decree in a suit for foreclosure, sale or redemption where the mortgagor pays the amount of the decree.

(Order XXXIV, rules 3, 5 and 8.)

(TITLE.)

This suit coming on this day for further consideration and it appearing that on the day of the mortgagor or , the same being a person entitled to redeem, has paid into

Court all amounts due to the mortgagee under the preliminary decree dated the day of ; It is hereby ordered and decreed that:—

(*i*) the mortgagee do execute a deed of reconveyance of the property in the aforesaid preliminary decree mentioned in favour of the mortgagor *[or, as the case may be, who has redeemed the property] or an acknowledgment of the payment of the amount due in his favour;

(*ii*) the mortgagee do bring into Court all documents in his possession and power relating to the mortgaged property in the suit.

And it is hereby further ordered and decreed that, upon the mortgagee executing the deed of re-conveyance or acknowledgment in the manner aforesaid,—

(*i*) the said sum of Rs. be paid out of Court to the mortgagee;

(*ii*) the said deeds and documents brought into the Court be delivered out of Court to the mortgagor *[or the person making the payment] and the mortgagee do, when so required, concur in registering, at the cost of the mortgagor *[or other person making the payment], the said deed of re-conveyance or the acknowledgment in the office of the Sub-Registrar of ; and

(*iii*) *[if the mortgagee, plaintiff or defendant, as the case may be, is in possession of the mortgaged property] that the mortgagee do forthwith deliver possession of the mortgaged property in the aforesaid preliminary decree mentioned to the mortgagor *[or such person as aforesaid who has made the payment].

FORM No. 8.

Decree against mortgagor personally for balance after the sale of the mortgaged property.

(Order XXXIV, rules 6 and 8A.)

(TITLE.)

Upon reading the application of the mortgagee (the plaintiff or defendant, as the case may be) and reading the final decree passed in the suit on the day of and the Court being satisfied that the net proceeds of the sale held under the aforesaid final decree amounted to Rs. and have been paid to the applicant out of the Court on the day of and that the balance now due to him under the aforesaid decree is Rs. ;

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* Words not required to be deleted.

And whereas it appears to the Court that the said sum is legally recoverable from the mortgagor (plaintiff or defendant, as the case may be) personally;

It is hereby ordered and decreed as follows:—

That the mortgagor (plaintiff or defendant, as the case may be) do pay the mortgagee (defendant or plaintiff, as the case may be) the said sum of Rs. with further interest at the rate of six per cent. per annum from the day of (the date of payment out of Court referred to above) up to the date of realization of the said sum, and the costs of this application.

FORM No. 9.

Preliminary decree for foreclosure or sale.

[Plaintiff .....1st Mortgagee,

vs.

Defendant No. 1.....Mortgagor.

Defendant No. 2.....2nd Mortgagee.]

(Order XXXIV, rules 2 and 4.)

(TITLE.)

The suit coming on this day, etc.; It is hereby declared that the amount due to the plaintiff on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) incurred by the plaintiff in respect of the mortgage-security with interest thereon and the sum of Rs. for the costs of this suit awarded to the plaintiff, making in all the sum of Rs. .

(*Similar declarations to be introduced with regard to the amount due to defendant No. 2 in respect of his mortgage if the mortgage-money due thereunder has become payable at the date of the suit.*)

2. It is further declared that the plaintiff is entitled to payment of the amount due to him in priority to defendant No. 2 *[or (if there are several subsequent mortgagees) that the several parties hereto are entitled in the following order to the payment of the sums due to them respectively:—].

3. And it is hereby ordered and decreed as follows:—

(*i*) (*a*) that defendants or one of them do pay into Court on or before the day of or any later

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* Words not required to be deleted.

date up to which time for payment has been extended by the Court the said sum of Rs. due to the plaintiff; and

(*b*) that defendant No. 1 do pay into Court on or before the day of or any later date up to which time for payment has been extended by the Court the said sum of Rs. due to defendant No. 2; and

(*ii*) that, on payment of the sum declared to be due to the plaintiff by defendants or either of them in the manner prescribed in clause (*i*) (*a*) and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the defendant No. (who has made the payment), or to such person as he appoints, and the plaintiff shall, if so required, re-convey or re-transfer the said property free from the said mortgage and clear of and from all incumbrances created by the plaintiff or any person claiming under him or any person under whom he claims, and also free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the defendant No. (who has made the payment) quiet and peaceable possession of the said property.

(*Similar declarations to be introduced, if defendant No. 1 pays the amount found or declared to be due to defendant No. 2 with such variations as may be necessary having regard to the nature of his mortgage.*)

4. And it is hereby further ordered and decreed that, in default of payment as aforesaid of the amount due to the plaintiff, the plaintiff shall be at liberty to apply to the Court for a final decree—

(*i*) *[*in the case of a mortgage by conditional sale or an anomalous mortgage where the only remedy provided for in the mortgage-deed is foreclosure and not sale*] that the defendants jointly and severally shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule

* Words not required to be deleted.

annexed hereto and shall, if so required, deliver to the plaintiff quiet and peaceable possession of the said property; or

(*ii*) *[*in the case of any other mortgage*] that the mortgaged property or a sufficient part thereof shall be sold; and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property; and

(*iii*) *[*in the case where a sale is ordered under clause 4 (ii) above*] that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to the plaintiff under this decree and under any further orders that may have been passed in this suit and in payment of the amount which the Court may adjudge due to the plaintiff in respect of such costs of this suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be applied in payment of the amount due to defendant No. 2; and that if any balance be left, it shall be paid to the defendant No. 1 or other persons entitled to receive the same; and

(*iv*) that, if the money realised by such sale shall not be sufficient for payment in full of the amounts due to the plaintiff and defendant No. 2, the plaintiff or defendant No. 2 or both of them, as the case may be, shall be at liberty (when such remedy is open under the terms of their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amounts remaining due to them respectively.

5. And it is hereby further ordered and decreed—

(*a*) that if defendant No. 2 pays into Court to the credit of this suit the amount adjudged due to the plaintiff, but defendant No. 1 makes default in the payment of the said amount, defendant No. 2 shall be at liberty to apply to the Court to keep the plaintiff's mortgage alive for his benefit and to apply for a final decree (*in the same manner as the plaintiff might have done under clause 4 above*)—

* Words not required to be deleted.

*[(*i*) that defendant No. 1 shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to defendant No. 2 quiet and peaceable possession of the said property;] or

*[(*ii*) that the mortgaged property or a sufficient part thereof be sold and that for the purposes of such sale defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property;]

and (*b*) (if on the application of defendant No. 2 such a final decree for foreclosure is passed), that the whole of the liability of defendant No. 1 arising from the plaintiff's mortgage or from the mortgage of defendant No. 2 or from this suit shall be deemed to have been discharged and extinguished.

6. And it is hereby further ordered and decreed *[*in the case where a sale is ordered under clause 5 above*]—

(*i*) that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount paid by defendant No. 2 in respect of the plaintiff's mortgage and the cost of the suit in connection therewith and in payment of the amount which the Court may adjudge due in respect of subsequent interest on the said amount; and that the balance, if any, shall then be applied in payment of the amount adjudged due to defendant No. 2 in respect of his own mortgage under this decree and any further orders that may be passed and in payment of the amount which the Court may adjudge due in respect of such costs of this suit and such costs, charges and expenses as may be payable to defendant No. 2 under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to defendant No. 1 or other persons entitled to receive the same; and

(*ii*) that, if the money realised by such sale shall not be sufficient for payment in full of the amount due in respect of the plaintiff's mortgage or defendant No. 2's mortgage, defendant No. 2 shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred

* Words not required to be deleted.

by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amount of the balance.

7. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 10.

Preliminary decree for redemption of prior mortgage and foreclosure or sale on subsequent mortgage.

[Plaintiff.....2nd Mortgagee,

vs.

Defendant No. 1.....Mortgagor.

Defendant No. 2.....1st Mortgagee.]

(Order XXXIV, rules 2, 4 and 7.)

(TITLE.)

The suit coming on this day, etc.; It is hereby declared that the amount due to defendant No. 2 on the mortgage mentioned in the plaint calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) properly incurred by defendant No. 2 in respect of the mortgage-security with interest thereon and the sum of Rs. for the costs of this suit awarded to defendant No. 2, making in all the sum of Rs. .

(*Similar declarations to be introduced with regard to the amount due from defendant No. 1 to the plaintiff in respect of his mortgage if the mortgage-money due thereunder has become payable at the date of the suit.*)

2. It is further declared that defendant No. 2 is entitled to payment of the amount due to him in priority to the plaintiff *[or (if there are several subsequent mortgagees) that the several parties hereto are entitled in the following order to the payment of the sums due to them respectively:—].

3. And it is hereby ordered and decreed as follows:—

(*i*) (*a*) that the plaintiff or defendant No. 1 or one of them do pay into Court on or before the day of

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* Words not required to be deleted.

or any later date up to which time for payment has been extended by the Court the said sum of Rs. due to defendant No. 2; and

(*b*) that defendant No. 1 do pay into Court on or before the day of or any later date up to which time for payment has been extended by the Court the said sum of Rs. due to the plaintiff; and

(*ii*) that, on payment of the sum declared due to defendant No. 2 by the plaintiff and defendant No. 1 or either of them in the manner prescribed in clause (*i*) (*a*) and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11 of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, defendant No. 2 shall bring into Court all documents in his possession or power relating to the mortgaged property in the plaint mentioned, and all such documents shall be delivered over to the plaintiff or defendant No. 1 (whoever has made the payment), or to such person as he appoints, and defendant No. 2 shall, if so required, re-convey or retransfer the said property free from the said mortgage and clear of and from all incumbrances created by defendant No. 2 or any person claiming under him or any person under whom he claims, and also free from all liability whatsoever arising from the mortgage or this suit and shall, if so required, deliver up to the plaintiff or defendant No. 1 (whoever has made the payment) quiet and peaceable possession of the said property.

(*Similar declarations to be introduced, if defendant No. 1 pays the amount found or declared due to the plaintiff with such variations as may be necessary having regard to the nature of his mortgage.*)

4. And it is hereby further ordered and decreed that, in default of payment as aforesaid, of the amount due to defendant No. 2, defendant No. 2 shall be at liberty to apply to the Court that the suit be dismissed or for a final decree—

(*i*) *[*in the case of a mortgage by conditional sale or an anomalous mortgage where the only remedy provided for in the mortgage-deed is foreclosure and not sale*] that the plaintiff

* Words not required to be deleted.

and defendant No. 1 jointly and severally shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver to the defendant No. 2 quiet and peaceable possession of the said property; or

(*ii*) *[*in the case of any other mortgage*] that the mortgaged property or a sufficient part thereof shall be sold; and that for the purposes of such sale defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property; and

(*iii*) *[*in the case where a sale is ordered under clause 4 (ii) above*] that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) in payment of the amount payable to defendant No. 2 under the decree and any further orders that may be passed in this suit and in payment of the amount which the Court may adjudge due to defendant No. 2 in respect of such costs of the suit and such costs, charges and expenses as may be payable to the plaintiff under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908; and that the balance, if any, shall be applied in payment of the amount due to the plaintiff and that, if any balance be left, it shall be paid to defendant No. 1 or other persons entitled to receive the same; and

(*iv*) that, if the money realised by such sale shall not be sufficient for payment in full of the amounts due to defendant No. 2 and the plaintiff, defendant No. 2 or the plaintiff or both of them, as the case may be, shall be at liberty (when such remedy is open under the terms of their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amounts remaining due to them respectively.

5. And it is hereby further ordered and decreed,—

(*a*) that, if the plaintiff pays into Court to the credit of this suit the amount adjudged due to defendant No. 2 but defendant No. 1 makes default in the payment of the said amount, the plaintiff shall be at liberty to apply to the Court to keep defendant No. 2's mortgage alive for his benefit and to

* Words not required to be deleted.

apply for a final decree (*in the same manner as the defendant No. 2 might have done under clause 4 above*)—

*[(*i*) that defendant No. 1 shall thenceforth stand absolutely debarred and foreclosed of and from all right to redeem the mortgaged property described in the Schedule annexed hereto and shall, if so required, deliver up to the plaintiff quiet and peaceable possession of the said property;] or

*[(*ii*) that the mortgaged property or a sufficient part thereof be sold and that for the purposes of such sale the plaintiff shall produce before the Court or such officer as it appoints, all documents in his possession or power relating to the mortgaged property;]

and (*b*) (if on the application of defendant No. 2 such a final decree for foreclosure is passed), that the whole of the liability of defendant No. 1 arising from the plaintiff's mortgage or from the mortgage of defendant No. 2 or from this suit shall be deemed to have been discharged and extinguished.

6. And it is hereby further ordered and decreed (*in the case where a sale is ordered under clause 5 above*)—

(*i*) that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount paid by the plaintiff in respect of defendant No. 2's mortgage and the costs of the suit in connection therewith and in payment of the amount which the Court may adjudge due in respect of subsequent interest on the said amount; and that the balance, if any, shall then be applied in payment of the amount adjudged due to the plaintiff in respect of his own mortgage under this decree and any further orders that may be passed and in payment of the amount which the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable to the plaintiff under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be paid to defendant No. 1 or other persons entitled to receive the same; and

(*ii*) that, if the money realised by such sale shall not be sufficient for payment in full of the amount due in respect of defend-

* Words not required to be deleted.

ant No. 2's mortgage or the plaintiff's mortgage, defendant No. 2 shall be at liberty (where such remedy is open to him under the terms of his mortgage and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 1 for the amount of the balance.

7. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court from time to time as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

FORM No. 11.

Preliminary decree for sale.

[Plaintiff.....Sub or derivative mortgagee,

vs.

Defendant No. 1.....Mortgagor.

Defendant No. 2.....Original mortgagee.]

(Order XXXIV, rule 4.)

(TITLE.)

This suit coming on this day, etc.; It is hereby declared that the amount due to defendant No. 2 on his mortgage calculated up to this day of is the sum of Rs. for principal, the sum of Rs. for interest on the said principal, the sum of Rs. for costs, charges and expenses (other than the costs of the suit) in respect of the mortgage-security together with interest thereon and the sum of Rs. for the costs of the suit awarded to defendant No. 2, making in all the sum of Rs. .

(*Similar declarations to be introduced with regard to the amount due from defendant No. 2 to the plaintiff in respect of his mortgage.*)

2. And it is hereby ordered and decreed as follows:—

(*i*) that defendant No. 1 do pay into Court on or before the said day of or any later date up to which time for payment may be extended by the Court the said sum of Rs. due to defendant No. 2.

(*Similar declarations to be introduced with regard to the amount due to the plaintiff, defendant No. 2 being at liberty to pay such amount.*)

(*ii*) that, on payment of the sum declared due to defendant No. 2 by defendant No. 1 in the manner prescribed in clause 2 (*i*)

and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff and defendant No. 2 shall bring into Court all documents in their possession or power relating to the mortgaged property in the plaint mentioned, and all such documents (except such as relate only to the sub-mortgage) shall be delivered over to defendant No. 1, or to such person as he appoints, and defendant No. 2 shall, if so required, re-convey or re-transfer the property to defendant No. 1 free from the said mortgage clear of and from all incumbrances created by defendant No. 2 or any person claiming under him or any person under whom he claims and free from all liability arising from the mortgage or this suit and shall, if so required, deliver up to defendant No. 1 quiet and peaceable possession of the said property; and

(*iii*) that, upon payment into the Court by defendant No. 1 of the amount due to defendant No. 2, the plaintiff shall be at liberty to apply for payment to him of the sum declared due to him together with any subsequent costs of the suit and other costs, charges and expenses, as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908; and that the balance, if any, shall then be paid to defendant No. 2; and that if the amount paid into the Court be not sufficient to pay in full the sum due to the plaintiff, the plaintiff shall be at liberty (if such remedy is open to him by the terms of the mortgage and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 2 for the amount of the balance.

3. And it is further ordered and decreed that if defendant No. 2 pays into Court to the credit of this suit the amount adjudged due to the plaintiff, the plaintiff shall bring into the Court all documents, etc. [as in sub-clause (*ii*) of clause 2].

4. And it is hereby further ordered and decreed that, in default of payment by defendants Nos. 1 and 2 as aforesaid, the plaintiff may apply to the Court for a final decree for sale, and on such application being

made the mortgaged property or a sufficient part thereof shall be directed to be sold; and that for the purposes of such sale the plaintiff and defendant No. 2 shall produce before the Court or such officer as it appoints, all documents in their possession or power relating to the mortgaged property.

5. And it is hereby further ordered and decreed that the money realised by such sale shall be paid into Court and be duly applied (after deduction therefrom of the expenses of the sale) first in payment of the amount due to the plaintiff as specified in clause 1 above with such costs of the suit and other costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11 of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, and that the balance, if any, shall be applied in payment of the amount due to defendant No. 2; and that, if any balance be left, it shall be paid to defendant No. 1 or other persons entitled to receive the same.

6. And it is hereby further ordered and decreed that, if the money realised by such sale shall not be sufficient for payment in full of the amounts payable to the plaintiff and defendant No. 2, the plaintiff or defendant No. 2 or both of them, as the case may be, shall be at liberty (if such remedy is open under their respective mortgages and is not barred by any law for the time being in force) to apply for a personal decree against defendant No. 2 or defendant No. 1 (as the case may be) for the amount of the balance.

7. And it is hereby further ordered and decreed that, if defendant No. 2 pays into Court to the credit of this suit the amount adjudged due to the plaintiff, but defendant No. 1 makes default in payment of the amount due to defendant No. 2, defendant No. 2 shall be at liberty to apply to the Court for a final decree for foreclosure or sale (as the case may be)—(*declarations in the ordinary form to be introduced according to the nature of defendant No. 2's mortgage and the remedies open to him thereunder*).

8. And it is hereby further ordered and decreed that the parties are at liberty to apply to the Court as they may have occasion, and on such application or otherwise the Court may give such directions as it thinks fit.

SCHEDULE.

Description of the mortgaged property.

ACT No. I OF 1930.[1]

[*15th February, 1930.*]

An Act further to amend the Provident Funds Act, 1925, for certain purposes.

WHEREAS it is expedient further to amend the Provident Funds Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:— **XIX of 1925.**

Short title.

1. This Act may be called the Provident Funds (Amendment) Act, 1929.

Amendment of section 2, Act XIX of 1925.

2. In section 2 of the Provident Funds Act, 1925 (hereinafter referred to as the said Act), **XIX of 1925.**—

(*a*) in clause (*a*)—

(*i*) after the words " life insurance," the words " or the payment of subscriptions or premia in respect of a family pension fund ", shall be inserted; and

(*ii*) the words " credited in respect of any such subscription or deposit " shall be omitted;

(*b*) in clause (*b*), for the words " or otherwise in respect of a subscription to, or deposit in," the words " a subscription to, or deposit or balance at the credit of an individual account in," shall be substituted; and

(*c*) in clause (*e*), the words " credited in respect of such subscriptions or deposits " shall be omitted.

Amendment of section 8, Act XIX of 1925.

3. Section 8 of the said Act shall be numbered as sub-section (*1*) of section 8 and the following sub-sections shall be added, namely:—

" (*2*) The Governor General in Council may, by notification in the Gazette of India, direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or of any group of such institutions, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and the authority having custody of the Fund were the Government:

Provided that section 6 shall apply as if the authority making the contributions referred to in that section were the Government.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 208.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

(*3*) The Governor General in Council may, by notification in the Gazette of India, add to the Schedule the name of any public institution he may deem fit, and any such addition shall take effect as if it had been made by this Act."

4. The following Schedule shall be added to the said Act, namely:— **Addition of Schedule to Act XIX of 1925.**

" THE SCHEDULE.

LIST OF INSTITUTIONS.

[*See sub-section (2) of section 8.*]

1. The Pasteur Institute of India, Kasauli.
2. The Calcutta Improvement Tribunal.
3. A Court of Wards.
4. The Indian Central Cotton Committee.
5. The Trustees for the European Hospital for mental diseases at Ranchi.
6. The National Association for supplying female medical aid to the women of India.
7. A College affiliated to a University established by Statute."

THE DANGEROUS DRUGS ACT, 1930.

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SCHEDULE I.—Form of bond to abstain from the commission of offences under the Dangerous Drugs Act, 1930.

SCHEDULE II.—Amendments of local Acts.

ACT No. II OF 1930.[1]

[*1st March, 1930.*]

An Act to centralise and vest in the Governor General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations.

WHEREAS India participated in the Second International Opium Conference, which was convoked in accordance with the resolution of the Assembly of the League of Nations dated the 27th day of September, 1923, met at Geneva on the 17th day of November, 1924, and on the 19th day of February, 1925, adopted the Convention relating to Dangerous Drugs (hereinafter referred to as the Geneva Convention);

AND WHEREAS India was a State signatory to the said Geneva Convention;

AND WHEREAS the Contracting Parties to the said Geneva Convention resolved to take further measures to suppress the contraband traffic in and abuse of Dangerous Drugs, especially those derived from opium, Indian hemp and coca leaf, such measures being more particularly set forth in the Articles of the said Geneva Convention;

AND WHEREAS for the effective carrying out of the said measures it is expedient that the control of certain operations relating to Dangerous Drugs should be centralised and vested in the Governor General in Council;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 138; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 27.

AND WHEREAS it is also expedient that the penalties for certain offences relating to Dangerous Drugs should be increased, and that all penalties relating to certain operations should be rendered uniform throughout British India;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Dangerous Drugs Act, 1930.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " coca leaf " means—

(*i*) the leaf and young twigs of any coca plant, that is, of the *Erythroxylon coca* (*Lamk.*) and the *Erythroxylon novogranatense* (*Hiern.*) and their varieties, and of any other species of this genus which the Governor General in Council may, by notification in the Gazette of India, declare to be coca plants for the purposes of this Act; and

(*ii*) any mixture thereof, with or without neutral materials; but does not include any preparation containing not more than 0·1 per cent. of cocaine;

(*b*) " coca derivative " means—

(*i*) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;

(*ii*) ecgonine, that is, lævo-ecgonine having the chemical formula $C_9H_{15}NO_3.H_2O$, and all the derivatives of lævo-ecgonine from which it can be recovered;

(*iii*) cocaine, that is, methyl-benzoyl-lævo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$, and its salts; and

(*iv*) all preparations, officinal and non-officinal, containing more than 0·1 per cent. of cocaine;

[1] This Act came into force on the 1st February, 1931, *see* Gazette of India, 1931, Pt. I, p. 35.

(*c*) " hemp " means—

(*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja;*

(*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*iii*) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom;

(*d*) " medicinal hemp " means any extract or tincture of hemp;

(*e*) " opium " means—

(*i*) the capsules of the poppy (*Papaver somniferum L.*);

(*ii*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*iii*) any mixture, with or without neutral materials, of any of the above forms of opium;

but does not include any preparation containing not more than 0·2 per cent. of morphine;

(*f*) " opium derivative " means—

(*i*) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopœia, whether in powder form or granulated or otherwise or mixed with neutral materials;

(*ii*) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;

(*iii*) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$, and its salts;

(*iv*) diacetylmorphine, that is, the alkaloid, also known as diamorphine or heroin, having the chemical formula $C_{21}H_{23}NO_5$, and its salts; and

(*v*) all preparations, officinal and non-officinal, containing more than 0·2 per cent. of morphine, or containing any diacetylmorphine;

(*g*) " manufactured drug " includes—

(*i*) all coca derivatives, medicinal hemp and opium derivatives; and

(*ii*) any other narcotic substance which the Governor General in Council may, by notification in the Gazette of India made in pursuance of a recommendation under Article 10 of the Geneva Convention, declare to be a manufactured drug;

but does not include any preparation which the Governor General in Council may, by notification in the Gazette of India made in pursuance of a finding under Article 8 of the Geneva Convention, declare not to be a manufactured drug;

(*h*) " dangerous drug " includes coca leaf, hemp and opium, and all manufactured drugs;

(*i*) " to import into British India " means, subject to the provisions of clause (*j*), to bring into British India by land, sea or air;

(*j*) " to import inter-provincially " means to bring into one province from another, and includes—

(*i*) the bringing of a dangerous drug into a province from any territory of a Prince or Chief in India which is adjacent to or enclosed by the territories of such province, which the Governor General in Council may, by notification in the Gazette of India, declare to be inter-provincial import; and

(*ii*) bringing into one province from another, in the course of a continuous journey, by sea or through the territory of a Prince or Chief in India;

(*k*) " to export from British India " means, subject to the provisions of clause (*l*), to take out of British India by land, sea or air;

(*l*) " to export inter-provincially " means to take out of one province into another, and includes—

(*i*) the taking of a dangerous drug out of a province into any territory of a Prince or Chief in India which is adjacent to or enclosed by the territories of such province, which the Governor General in Council may, by notification in the Gazette of India, declare to be inter-provincial export; and

(*ii*) taking out of one province into another, in the course of a continuous journey, by sea or through the territories of a Prince or Chief in India;

(*m*) " to transport " means to take from one place to another in the same province; and

(*n*) " territory of a Prince or Chief in India " includes any territory in which the Governor General in Council exercises powers or jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902.

Calculation of percentages in liquid preparations.

3. The Governor General in Council may make rules prescribing the method by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (*a*), (*b*), (*e*) and (*f*) of section 2:

Provided that, unless and until such rules are made such percentages shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

CHAPTER II.

Prohibition and Control.

Prohibition of certain operations.

4. No one shall—

(*a*) cultivate any coca plant, or gather any portion of a coca plant,

(*b*) manufacture or possess prepared opium, unless it is prepared from opium lawfully possessed for the consumption of the person so possessing it, or

(*c*) import into British India, export from British India, tranship or sell prepared opium:

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of Government.

Control of Governor General in Council over production and supply of opium.

5. (*1*) No one shall—

(*a*) cultivate the poppy (*Papaver somniferum L.*), or

(*b*) manufacture opium,

save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The Governor General in Council may make rules permitting and regulating the cultivation of the poppy (*Papaver somniferum L.*) and the manufacture of opium, and such rules may prescribe the form and conditions of licences for such cultivation and manufacture, the authorities by which such licences may be granted, the fees that may be charged

therefor, and any other matter requisite to render effective the control of the Governor General in Council over such cultivation and manufacture.

(*3*) The Governor General in Council may also make rules permitting and regulating the sale of opium from Government factories for export or to Local Governments or to manufacturing chemists.

Control of Governor General in Council over manufacture of manufactured drugs.

6. (*1*) No one shall manufacture any manufactured drug, other than prepared opium, save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The Governor General in Council may make rules permitting and regulating the manufacture of manufactured drugs, other than prepared opium, and such rules may prescribe the form and conditions of licences for such manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matter requisite to render effective the control of the Governor General in Council over such manufacture.

(*3*) Nothing in this section shall apply to the manufacture of medicinal opium or of preparations containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Control of Governor General in Council over operations at land and sea frontiers.

7. (*1*) No one shall—

(*a*) import into British India,

(*b*) export from British India, or

(*c*) tranship

any dangerous drug, other than prepared opium, save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The Governor General in Council may make rules permitting and regulating the import into and export from British India and the transhipment of dangerous drugs, other than prepared opium, and such rules may prescribe the ports or places at which any kind of dangerous drug may be imported, exported or transhipped, the form and conditions of licences for such import, export or transhipment, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the Governor General in Council over such import, export and transhipment.

Control of Local Government over internal traffic in manufactured drugs and coca leaf.

8. (*1*) No one shall—

(*a*) import or export inter-provincially, transport, possess or sell any manufactured drug, other than prepared opium, or coca leaf, or

(*b*) manufacture medicinal opium or any preparation containing morphine, diacetylmorphine or cocaine,

save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The Local Government may, subject to the control of the Governor General in Council, make rules permitting and regulating—

(*a*) the inter-provincial import and export into and from the territories under its administration, the transport, possession and sale of manufactured drugs, other than prepared opium, and of coca leaf; and

(*b*) the manufacture of medicinal opium or of any preparation containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Such rules may prescribe the form and conditions of licences for such import, export, transport, possession, sale and manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matters requisite to render effective the control of the Local Government over such import, export, transport, possession, sale and manufacture.

(*3*) Save in so far as may be expressly provided in rules made under sub-section (*2*), nothing in this section shall apply to manufactured drugs which are the property and in the possession of Government:

Provided that such drugs shall not be sold or otherwise delivered to any person who, under the rules made by the Local Government under this section, is not entitled to their possession.

Control of Local Government over external dealings in dangerous drugs.

9. No one shall engage in or control any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, save in accordance with the conditions of a licence granted by and at the discretion of the Local Government.

CHAPTER III.

Offences and Penalties.

Punishment for contravention of section 4.

10. Whoever—

(*a*) cultivates any coca plant or gathers any portion of a coca plant,

(*b*) manufactures or possesses prepared opium otherwise than as permitted under section 4, or

(*c*) imports into British India, exports from British India, transhipps or sells prepared opium,

shall be punished with imprisonment which may extend to two years, or with fine, or with both:

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of Government.

Punishment for contravention of section 5.

11. Whoever, in contravention of section 5, or any rule made under that section, or of any condition of a licence granted thereunder,

(*a*) cultivates the poppy, or

(*b*) manufactures opium,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 6.

12. Whoever, in contravention of section 6, or any rule made under that section or any condition of a licence granted thereunder, manufactures any manufactured drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 7.

13. Whoever, in contravention of section 7, or any rule made under that section, or any condition of a licence granted thereunder,

(*a*) imports into British India,

(*b*) exports from British India, or

(*c*) transhipsany dangerous drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 8.

14. Whoever, in contravention of section 8, or any rule made under that section, or any condition of a licence issued thereunder,

(*a*) imports or exports inter-provincially, transports, possesses or sells any manufactured drug or coca leaf, or

(*b*) manufactures medicinal opium or any preparations containing morphine, diacetylmorphine or cocaine,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for allowing premises to be used for the commission of an offence.

15. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place, knowingly permits it to be used for the commission by any other person of an offence punishable under section 10, section 12, section 13, or section 14, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Enhanced punishn ent for certain offences after previous conviction.

16. Whoever, having been convicted of an offence punishable under section 10, section 12, section 13, or section 14, is guilty of any offence punishable under any of those sections, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both.

Enhanced punishment for offence under section 15 after previous conviction.

17. Whoever, having been convicted of an offence punishable under section 15, is again guilty of an offence punishable under that section, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both.

Security for abstaining from commission of certain offences.

18. (*1*) Whenever any person is convicted of an offence punishable under section 10, section 12, section 13, or section 14, and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in Schedule I, and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

V of 1898.

(*3*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Penalty for contravention of section 9.

19. Whoever engages in or controls any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, otherwise than in accordance with the conditions of a licence granted under section 9, shall be punished with fine which may extend to one thousand rupees.

Attempts.

20. Whoever attempts to commit an offence punishable under this Chapter, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

Abetments.

21. (*1*) Whoever abets an offence punishable under this Chapter shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for the offence.

XLV of 1860.

(*2*) A person abets an offence within the meaning of this section who, in British India, abets the commission of any act in a place without and beyond British India which—

(*a*) would constitute an offence if committed within British India;

or

(*b*) under the laws of such place, is an offence relating to dangerous drugs having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within British India.

CHAPTER IV.

PROCEDURE.

Power to issue warrants.

22. (*1*) The Collector, or other officer authorised by the Local Government in this behalf, or a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence punishable under Chapter III, or for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed.

(*2*) The officer to whom a search warrant under sub-section (*1*) is addressed shall have all the powers of an officer acting under section 23.

Power of entry, search, seizure and arrest without warrant.

23. (*1*) Any officer of the department of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, authorised in this behalf by the Local Government, who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,—

(*a*) enter into any such building, vessel or place;

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry;

(*c*) seize such drug and all materials used in the manufacture thereof and any other article which he has reason to believe to be liable to confiscation under section 33 and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug; and

(*d*) detain and search, and, if he think proper, arrest any person whom he has reason to believe to have committed an offence punishable under Chapter III relating to such drug:

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, vessel or enclosed place at any time between sunset and sunrise, after recording the grounds of his belief.

(*2*) Where an officer takes down any information in writing under sub-section (*1*), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

Power of seizure and arrest in public places.

24. Any officer of any of the departments mentioned in section 23 may—

(*a*) seize, in any public place or in transit, any dangerous drug in respect of which he has reason to believe an offence punishable under Chapter III has been committed, and, along with such drug, any other article liable to confiscation under section 33, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug;

(*b*) detain and search any person whom he has reason to believe to have committed an offence punishable under Chapter III, and, if such person has any dangerous drug in his possession and such possession appears to him to be unlawful, arrest him and any other persons in his company.

V of 1898.

Mode of making searches and arrests.

25. The provisions of the Code of Criminal Procedure, 1898, shall apply, in so far as they are not inconsistent with the provisions of sections 22, 23 and 24, to all warrants issued and arrests and searches made under those sections.

Obligations on officers to assist each other.

26. All officers of the several departments mentioned in section 23 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Report of arrests and seizures.

27. Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Punishment for vexatious entry, search, seizure or arrest.

28. Any person empowered under section 23 or section 24 who—

(*a*) without reasonable grounds of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place;

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any dangerous drug or other article liable to be confiscated under section 33, or of seizing any document or other article liable to seizure under section 23 or section 24; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person,

shall be punished with fine which may extend to five hundred rupees.

Disposal of persons arrested and of articles seized.

29. (*1*) Every person arrested and article seized under a warrant issued under section 22 shall be forwarded without delay to the authority by whom the warrant was issued; and every person arrested and article seized under section 23 or section 24 shall be forwarded without delay to the officer in charge of the nearest police station or to the nearest officer of the Excise Department empowered under section 30.

(*2*) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

Power to invest Excise officers with powers of an officer in charge of a police station.

30. The Local Government may invest any officer of the Excise Department or any class of such officers, with the powers of an officer in charge of a police station for the investigation of offences under this Act.

Jurisdiction to try offences.

31. No Magistrate shall try an offence under this Act unless he is a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government in this behalf.

Presumption from possession of illicit articles.

32. In trials under this Act it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under Chapter III in respect of—

(*a*) any dangerous drug;

(*b*) any poppy or coca plant growing on any land which he has cultivated;

(*c*) any apparatus specially designed or any group of utensils specially adapted for the manufacture of any dangerous drug; or

(*d*) any materials which have undergone any process towards the manufacture of a dangerous drug, or any residue left of the materials from which a dangerous drug has been manufactured,

for the possession of which he fails to account satisfactorily.

Liability of illicit articles, to confiscation.

33. (*1*) Whenever any offence has been committed which is punishable under Chapter III, the dangerous drug, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation.

(*2*) Any dangerous drug lawfully imported, transported, manufactured, possessed, or sold along with, or in addition to, any dangerous

drug which is liable to confiscation under sub-section (*1*), and the receptacles, packages and coverings in which any dangerous drug, materials, apparatus or utensils liable to confiscation under sub-section (*1*) is found, and the other contents, if any, of such receptacles or packages, and the animals, vehicles, vessels and other conveyances used in carrying the same, shall likewise be liable to confiscation:

Provided that no animal, vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that the owner thereof knew that the offence was being, or was to be or was likely to be, committed.

Procedure in making confiscations.

34. (*1*) In the trial of offences under this Act, whether the accused is convicted or acquitted, the Court shall decide whether any article seized under this Chapter is liable to confiscation under section 33; and, if it decides that the article is so liable, it may order confiscation accordingly.

(*2*) Where any article seized under this Chapter appears to be liable to confiscation under section 33, but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer authorised by the Local Government in this behalf, may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided, further, that, if any such article, other than a dangerous drug, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(*3*) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

Power to make rules regulating disposal of confiscated articles and rewards.

35. The Governor General in Council may make rules to regulate—

(*a*) the disposal of all articles confiscated under this Act; and

(*b*) the rewards to be paid to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

CHAPTER V.

MISCELLANEOUS.

Provisions regarding rules.

36. (*1*) All rules made under this Act shall be subject to the condition of previous publication.

(*2*) Rules made by the Governor General in Council shall be published in the Gazette of India, and rules made by a Local Government shall be published in the local official Gazette or, where there is no local official Gazette, in the Gazette of India.

(*3*) Rules made by a Local Government shall not be inconsistent with any rules made by the Governor General in Council, and shall be void to the extent of any such inconsistency.

Recovery of sums due to Government.

37. (*1*) Any arrear of any licence fee chargeable by any rule made under this Act may be recovered from the person primarily liable to pay the same or from his surety (if any) as if it were an arrear of land-revenue.

(*2*) When any person, in compliance with any rule made under this Act, gives a bond (other than a bond under section 18) for the performance of any act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty, within the meaning of section 74 of the Indian Contract Act, 1872; and, upon breach of the conditions of such bond by him, the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land-revenue. IX of 1872.

Application of the Sea Customs Act, 1878.

38. All prohibitions and restrictions imposed by or under this Act on the import into British India, the export from British India, and the transhipment of dangerous drugs, shall be deemed to be prohibitions and restrictions imposed under section 19 or section 134 of the Sea Customs Act, 1878, and the provisions of that Act shall apply accordingly: VIII of 1878.

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this section shall prevent the offender from being punished under this Act.

Saving of local and special laws.

39. (*1*) Nothing in this Act or in the rules made thereunder shall affect the validity of any enactment of a local Legislature for the time being in force, or of any rule made thereunder, which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by or under this Act, on the consumption of or traffic in any dangerous drug within British India.

(*2*) Nothing in this Act or in the rules made thereunder shall affect the validity of the Opium Act, 1857: XIII of 1857.

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this sub-section shall prevent the offender from being punished under this Act.

Amendment of certain enactments.

40. The enactments specified in the first three columns of Schedule II are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Saving of things already done.

41. When anything done under any enactment specified in the first three columns of Schedule II is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under this Act or under that enactment as hereby amended, as the case may require.

SCHEDULE I.

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE DANGEROUS DRUGS ACT, 1930.

(*See* section 18.)

Whereas I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, for the term of , I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King, Emperor of India, the sum of rupees

Dated this day of 19

(*Signature.*)

(*Where a bond with sureties is to be executed, add*—)

We do hereby declare ourselves sureties for the abovenamed that he will abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King, Emperor of India, the sum of rupees

Dated this day of 19

(*Signatures.*)

SCHEDULE II.

AMENDMENTS OF LOCAL ACTS.

(*See* section 40.)

Acts of the Governor General in Council.

Year.	No.	Short title.	Amendments.
1878	I	The Opium Act, 1878 .	In section 3,— (*a*) for the definition of "opium" the following definition shall be substituted, namely :— " 'opium' means— (*i*) the capsules of the poppy (*Papaver somniferum L.*); (*ii*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and (*iii*) any mixture, with or without neutral materials, of any of the above forms of opium, but does not include any preparation containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930"; and (*b*) for the definitions of "import" and "export" the following definitions shall be substituted, namely :— " 'import' means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930; 'export' means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930; and ". In section 4,— (*a*) clauses (*a*) and (*b*) shall be omitted; and (*b*) clauses (*c*), (*d*), (*e*) and (*f*) shall be re-lettered as clauses (*a*), (*b*), (*c*) and (*d*), respectively. In section 5,— (*a*) clauses (*a*) and (*b*) shall be omitted; (*b*) clauses (*c*), (*d*), (*e*) and (*f*) shall be re-lettered as clauses (*a*), (*b*), (*c*) and (*d*), respectively; and (*c*) in the proviso, for the word and figure "section 6" the words and figures "the Dangerous Drugs Act, 1930" shall be substituted. Section 6 shall be omitted. In section 9,— (*a*) clauses (*a*) and (*b*) shall be omitted; and (*b*) clauses (*c*), (*d*), (*e*), (*f*) and (*g*) shall be re-lettered as clauses (*a*), (*b*), (*c*), (*d*) and (*e*), respectively. In section 11,— (*a*) clause (*a*) shall be omitted; (*b*) in clause (*c*), for the word, brackets and letters "(*d*) or (*e*)" the word, brackets and letters "(*b*) or (*c*)" shall be substituted;

(Schedule II.—Amendments of local Acts.)

Acts of the Governor General in Council—contd.

Year.	No.	Short title.	Amendments.
1878	I	The Opium Act, 1878—*contd.*	(*c*) in clause (*d*), for the letter and brackets "(*f*)" the letter and brackets "(*d*)" shall be substituted; and (*d*) clause (*b*), and clauses (*c*) and (*d*) as so amended, shall be re-lettered as clauses (*a*), (*b*) and (*c*), respectively. In section 14,— (*a*) the word "manufactured," shall be omitted; and (*b*) in clause (*c*), the words "and all materials used in the manufacture thereof" shall be omitted. Section 22 shall be omitted.
1898	VI	The Indian Post Office Act, 1898.	In section 25, after the words "any specified description" the words "or where the import or export into or from British India of goods of any specified description has been prohibited or restricted by or under any other enactment for the time being in force" shall be inserted.

Regulation by the Governor General in Council.

1915	I	The Excise Regulation, 1915.	In section 2,— (*a*) for the definition of "export" in clause (*8*), the following definition shall be substituted, namely:— "(*8*) 'Export' means to take out of the province: Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*11*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*b*) the definition of "hemp plant" in clause (9) shall be omitted; (*c*) for the definition of "import" in clause (*10*), the following definition shall be substituted, namely:— "(*10*) 'import' means to bring into the province: Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*11*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; (*d*) for the definition of "intoxicating drug" in clause (*11*), the following definition shall be substituted, namely:— "(*11*) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja*;

(Schedule II.—Amendments of local Acts.)

Regulation by the Governor General in Council.

Year.	No.	Short title.	Amendments.
1915	I	The Excise Regulation, 1915—*contd.*	(*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Chief Commissioner may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930;" (*e*) for the definition of "transport" in clause (*19*), the following definition shall be substituted, namely:— "(*19*) 'transport' means to move from one place to another within the province; provided that import and export from British Baluchistan from and to the territories administered by the Agent to the Governor General in Baluchistan as such Agent shall be deemed to be transport". Section 3 shall be omitted. In sections 13, 33 and 50, the words "or coca", wherever they occur, shall be omitted. In clause (*d*) of sub-section (*1*) of section 30, after the words "of any offence", where they occur for the first time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In section 33, the proviso shall be omitted.

Madras Act.

1886	I	The Madras Abkari Act, 1886.	In section 3,— (*a*) for the definition of "intoxicating drug" in clause (*13*) the following definition shall be substituted, namely:— "(*13*) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(*Schedule II.—Amendments of local Acts.*)

Madras Act—contd.

Year.	No.	Short title.	Amendments.
1886	I	The Madras Abkari Act, 1886—*contd.*	(*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and (*iv*) any other intoxicating or narcotic substance which the Governor in Council may by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 ; " (*b*) to the definition of " import " in clause (*15*) the following proviso shall be added, namely :— " Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930 ; " and (*c*) to the definition of " export " in clause (*16*) the following proviso shall be added, namely :— " Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930 ". In section 8, after the word " importation " the words " into British India " shall be inserted. In section 12,— (*a*) the words " or *Indica* " shall be omitted ; (*b*) the words " or coca plant (*Erythroxylon coca*) " shall be omitted ; and (*c*) the words " or coca ", where they occur after the word " hemp ", shall be omitted. In clause (*c*) of section 26, after the words " of any offence ", where they occur for the second time, the words " under the Dangerous Drugs Act, 1930, or " shall be inserted. In clause (*l*) of sub-section (*2*) of section 29, the words " and coca " shall be omitted, and for the word " plants ", wherever it occurs, the word " plant " shall be substituted. In clause (*c*) of section 55,— (*a*) the words " or *Indica* " shall be omitted ; (*b*) the words " the coca plant (*Erythroxylon coca*) " shall be omitted ; and (*c*) for the word " plants " the word " plant " shall be substituted.

(Schedule II.—Amendments of local Acts.)

Bombay Act.

Year.	No.	Short title.	Amendments.
1878	V	The Bombay Abkari Act, 1878.	In section 3,— (*a*) for the definition of "intoxicating drug" in clause (*9*) the following definitions shall be substituted, namely :— "(*9*) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja* ; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and (*iv*) any other intoxicating or narcotic substance which Government may, by notification in the Bombay Government Gazette, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930. (*9A*) 'hemp' means any variety of the Indian hemp plant from which intoxicating drugs can be produced ;" (*b*) to the definition of "to import" in clause (*10*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*9*) and hemp, it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930 ;" and (*c*) to the definition of "to export" in clause (*10*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*9*) and hemp, it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930 ;". Clause (*2*) of sub-section (*1*) of section 16 shall be omitted. In clause (*c*) of sub-section (*1*) of section 32, after the words "of any offence", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In sub-section (*1*) of section 32, the proviso shall be omitted. Sections 43A and 43B shall be omitted.

(Schedule II.—Amendments of local Acts.)

Bengal Act.

Year.	No.	Short title.	Amendments.
1809	V	The Bengal Excise Act, 1909.	In section 2,— (*a*) clause (*4A*) shall be omitted; (*b*) to the definition of "export" in clause (*11*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*c*) to the definition of "import" in clause (*12*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*d*) for the definition of "intoxicating drug" in clause (*13*) the following definition shall be substituted, namely:— "(*13*) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930." Section 3 shall be omitted. In clause (*d*) of sub-section (*1*) of section 42, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In section 46, the proviso shall be omitted.

(Schedule II.—Amendments of local Acts.)

United Provinces Act.

Year.	No.	Short title.	Amendments.
1910	IV	The United Provinces Excise Act, 1910.	In section 3,— (*a*) for the definition of "intoxicating drug" in clause (*12*) the following definition shall be substituted, namely :— "(*12*) 'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja* ; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug or any drink prepared therefrom ; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 ;" (*b*) to the definition of "import" in clause (*17*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*12*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930" ; (*c*) to the definition of "export" in clause (*18*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*12*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930" ; and (*d*) the definition of "cocaine" in clause (*23*) shall be omitted. Section 5 shall be omitted. In clause (*c*) of sub-section (*1*) of section 34, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In sections 51, 54, 69 and 70, the word, figures and letter "section 60A" shall be omitted. In section 60, the words "if the offence is committed in respect of cocaine, with imprisonment which may extend to two years or with fine or with both, and in any other case" shall be omitted. Sections 60A and 60B shall be omitted.

(Schedule II.—Amendments of local Acts.)

Punjab Act.

Year.	No.	Short title.	Amendments.
1914	I	The Punjab Excise Act, 1914.	In section 3,— (*a*) to the definition of "export" in clause (*10*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*b*) to the definition of "import" in clause (*12*) the following proviso shall be added, namely :— Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; and (*c*) for the definition of "intoxicating drug" in clause (*13*) the following definition shall be substituted, namely :— "'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930". In clause (*b*) of sub-section (*1*) of section 20, the words "or coca plant" shall be omitted. In clause (*1*) of section 26, in proviso (*a*) to section 32, in sub-clause (*ii*) of clause (*a*) of section 59, and in clause (*b*) of sub-section (*2*) of section 61, the words "or coca" shall be omitted. In clause (*d*) of section 36, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted.

(*Schedule II.—Amendments of local Acts.*)

Burma Acts.

Year.	No.	Short title.	Amendments.
1909	VII	The Burma Opium Law Amendment Act, 1909.	For section 2 the following section shall be substituted, namely :— "2. In this Act, 'opium' includes opium as defined in section 3 of the Opium Act, 1878, and opium derivatives as defined in clause (*f*) of section 2 of the Dangerous Drugs Act, 1930." In clause (*a*) of section 3, after the words and figures "Opium Act, 1878", the words and figures "or the Dangerous Drugs Act, 1930," shall be inserted. In sub-section (*1*) of section 4,— (*a*) for the words "the Opium Law for the time being in force" the words "any law for the time being in force relating to opium" shall be substituted ; (*b*) after the words and figures "Opium Act, 1878", the words and figures "or section 22 of the Dangerous Drugs Act, 1930," shall be inserted ; (*c*) in clauses (*b*) and (*c*), for the words "the Opium Law" the words "any law for the time being in force relating to opium" shall be substituted.
1917	V	The Burma Excise Act, 1917.	In section 2,— (*a*) clause (*d*) shall be omitted ; (*b*) to the definition of "Export" in clause (*i*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*l*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930" ; (*c*) clause (*j*) shall be omitted ; (*d*) to the definition of "Import" in clause (*k*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*l*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930" ; and (*e*) for the definition of "Intoxicating drug" in clause (*l*) the following definition shall be substituted, namely :— "'Intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja* ;

(*Schedule II.—Amendments of local Acts.*)

Burma Acts—contd.

Year.	No.	Short title.	Amendments.
1917	V	The Burma Excise Act, 1917—*contd.*	(*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 ". In section 11, for the words " the coca plant or any plant specified as an intoxicating drug by notification under section 2 (*l*) (*iii*) " the words " or any plant declared to be an intoxicating drug by a notification under section 2 (*l*) (*iv*) " shall be substituted. In clause (*g*) of section 30, for the words " coca plant or any plant specified as an intoxicating drug by notification under section 2 (*l*) (*iii*) " the words " or any plant declared to be an intoxicating drug by a notification under section 2 (*l*) (*iv*) " shall be substituted. Section 32 shall be omitted. In sections 44, 45, 46, 54, 55, 56 and 57, the word and figures " section 32 " shall be omitted. Section 64 shall be omitted.

Eastern Bengal and Assam Act.

1910	I	The Eastern Bengal and Assam Excise Act, 1910.	In section 3,— (*a*) to the definition of " Export " in clause (*11*) the following proviso shall be added, namely:— " Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930 "; (*b*) to the definition of " Import " in clause (*12*) the following proviso shall be added, namely:— " Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930 "; and

(*Schedule II.—Amendments of local Acts.*)

Eastern Bengal and Assam Act—contd.

Year.	No.	Short title.	Amendments.
1910	I	The Eastern Bengal and Assam Excise Act, 1910 —*contd.*	(c) for the definition of "Intoxicating drug" in clause (*13*) the following definition shall be substituted, namely :— " 'Intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja* ; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930 ". Section 5 shall be omitted. For clause (*b*) of sub-clause (*1*) of section 15 the following clause shall be substituted, namely :— " (*b*) no hemp plant (*Cannabis sativa L.*) shall be cultivated or collected ; ". In clause (*c*) of sub-section (*1*) of section 29, after the words " of any offence punishable ", where they occur for the second time, the words " under the Dangerous Drugs Act, 1930, or " shall be inserted. For sub-clause (*ii*) of clause (*e*) of sub-section (*2*) of section 36 the following sub-clause shall be substituted, namely :— " (*ii*) the cultivation of the hemp plant (*Cannabis sativa L.*), the collection of the spontaneous growth of such plant, and the preparation of any intoxicating drug from such growth ; ". In clause (*b*) of section 53, the words " or any cocaine-yielding plant of the genus *Erythroxylon* " shall be omitted. In clause (*a*) of sub-section (*1*) of section 67, the words " or cocaine-yielding plant of the genus *Erythroxylon* " shall be omitted. In clause (*a*) of section 68, the words " cocaine-yielding plant of the genus *Erythroxylon* " shall be omitted.

(Schedule II.—Amendments of local Acts.)

Bihar and Orissa Act.

Year.	No.	Short title.	Amendments.
1915	II	The Bihar and Orissa Excise Act, 1915.	In section 2,— (*a*) clause (*4*) shall be omitted; (*b*) to the definition of "export" in clause (*10*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930"; (*c*) to the definition of "import" in clause (*12*) the following proviso shall be added, namely:— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*13*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930"; (*d*) the definition of "hemp plant" in clause (*11*) shall be omitted; and (*e*) for the definition of "intoxicating drug" in clause (*13*) the following definition shall be substituted, namely:— "'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*; (*ii*) *charas*, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and (*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930". Section 3 shall be omitted. In clauses (*b*) and (*c*) of section 13, the words "or any cocaine-yielding plant of the genus *Erythroxylon*" shall be omitted. In clause (*d*) of sub-section (*1*) of section 42, after the words "of any offence punishable", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted.

(Schedule II.—Amendments of local Acts.)

Bihar and Orissa Act—concld.

Year.	No.	Short title.	Amendments.
1915	II	The Bihar and Orissa Excise Act, 1915—*contd.*	In section 47,— (*a*) in clauses (*b*) and (*c*), the words "or any cocaine-yielding plant of the genus *Erythroxylon*" shall be omitted ; and (*b*) the words "or, if the exciseable article in respect of which an offence under clause (*a*), or clause (*f*) or clause (*h*) has been committed is cocaine, to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both" shall be omitted. In section 60, the words "other than cocaine" shall be omitted.

Central Provinces Act.

1915	II	The Central Provinces Excise Act, 1915.	In section 2,— (*a*) clauses (*3A*) and (*4*) shall be omitted. (*b*) to the definition of "export" in clause (*9*) the following proviso shall be added, namely :— "Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*12*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930" ; (*c*) clause (*10*) shall be omitted ; (*d*) to the definition of "import" in clause (*11*) the following further proviso shall be added, namely :— "Provided further that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*12*), it means to import inter-provincially, as defined in clause (*j*) of section 2 of the Dangerous Drugs Act, 1930" ; and (*e*) for the definition of "intoxicating drug" in clause (*12*) the following definition shall be substituted, namely :— "'intoxicating drug' means— (*i*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja* ; (*ii*) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; (*iii*) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and

Year.	No.	Short title.	Amendments.
1915	II	The Central Provinces Excise Act, 1915—*contd.*	(*iv*) any other intoxicating or narcotic substance which the Local Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930". Section 3 shall be omitted. In clause (*b*) of section 13, in clause (*b*) of sub-section (*1*) of section 17, in clause (*a*) of proviso (*1*) to section 26, in clause (*c*) of section 34, in section 50, and in clause (*d*) of sub-section (*2*) of section 62, the words "or coca plant" or "or the coca plant", as the case may be, shall be omitted. In clause (*c*) of sub-section (*1*) of section 31, after the words "of any offence", where they occur for the second time, the words "under the Dangerous Drugs Act, 1930, or" shall be inserted. In section 34, the proviso shall be omitted.

THE INDIAN SALE OF GOODS ACT, 1930.

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ACT No. III OF 1930.[1]

[*15th March, 1930.*]

An Act to define and amend the law relating to the sale of goods.

WHEREAS it is expedient to define and amend the law relating to the sale of goods; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Sale of Goods Act, 1930.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of July, 1930.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " buyer " means a person who buys or agrees to buy goods;

(*2*) " delivery " means voluntary transfer of possession from one person to another;

(*3*) goods are said to be in a " deliverable state " when they are in such state that the buyer would under the contract be bound to take delivery of them;

(*4*) " document of title to goods " includes a bill of lading, dock-warrant, warehouse keeper's certificate, wharfingers' certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorse-

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[1] For Statement of Objects and Reasons and for Report of the Special Committee, *see* Gazette of India, 1929, Pt. V, p. 163; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 1.

ment or by delivery, the possessor of the document to transfer or receive goods thereby represented;

(*5*) " fault " means wrongful act or default;

(*6*) " future goods " means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale;

(*7*) " goods " means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(*8*) a person is said to be " insolvent " who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not;

(*9*) " mercantile agent " means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods;

(*10*) " price " means the money consideration for a sale of goods;

(*11*) " property " means the general property in goods, and not merely a special property;

(*12*) " quality of goods " includes their state or condition;

(*13*) " seller " means a person who sells or agrees to sell goods;

(*14*) " specific goods " means goods identified and agreed upon at the time a contract of sale is made; and

(*15*) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, have the meanings assigned to them in that Act. IX of 1872.

IX of 1872. **3.** The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods. Application of provisions of Act IX of 1872.

CHAPTER II.

Formation of the Contract.

Contract of Sale.

4. (*1*) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another. Sale and agreement to sell.

(*2*) A contract of sale may be absolute or conditional.

(*3*) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(*4*) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Formalities of the Contract.

Contract of sale how made.

5. (*1*) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(*2*) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

Subject-matter of Contract.

Existing or future goods.

6. (*1*) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.

(*2*) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(*3*) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods perishing before making of contract.

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

Goods perishing before sale but after agreement to sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

The Price.

Ascertainment of price.

9. (*1*) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(*2*) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation.

10. (*1*) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(*2*) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and Warranties.

Stipulations as to time.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

Condition and warranty.

12. (*1*) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(*2*) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(*3*) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(*4*) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

When condition to be treated as warranty.

13. (*1*) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(*2*) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(*3*) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Implied under-taking as to title, etc.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention there is—

(*a*) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(*b*) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(*c*) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

Sale by description.

15. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied conditions as to quality or fitness.

16. Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:—

(*1*) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(*2*) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality:

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(*3*) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(*4*) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

Sale by sample.

17. (*1*) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(*2*) In the case of a contract for sale by sample there is an implied condition—

(*a*) that the bulk shall correspond with the sample in quality;

(*b*) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(*c*) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

CHAPTER III.

Effects of the Contract.

Transfer of property as between seller and buyer.

Goods must be ascertained.

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass.

19. (*1*) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(*2*) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(*3*) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

Specific goods in a deliverable state.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed.

Specific goods to be put into a deliverable state.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price.

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Sale of unascertained goods and appropriation.

23. (*1*) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

Delivery to carrier.

(*2*) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

Goods sent on approval or "on sale or return".

24. When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer—

(*a*) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(*b*) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

Reservation of right of disposal.

25. (*1*) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case,

notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(*2*) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *primâ facie* deemed to reserve the right of disposal.

(*3*) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

Risk *primâ facie* passes with property.

26. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

Transfer of title.

Sale by person not the owner.

27. Subject to the provisions of this Act and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners.

28. If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by person in possession under voidable contract.

29. When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19A of the Indian Contract Act, 1872, but the contract has not been rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title. IX of 1872.

Seller or buyer in possession after sale.

30. (*1*) Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same.

(*2*) Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

CHAPTER IV.

Performance of the Contract.

Duties of seller and buyer.

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

Payment and delivery are concurrent conditions.

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods.

Delivery.

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf.

Effect of part delivery.

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the

goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Buyer to apply for delivery.

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Rules as to delivery.

36. (*1*) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or, if not then in existence, at the place at which they are manufactured or produced.

(*2*) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(*3*) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(*4*) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(*5*) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of wrong quantity.

37. (*1*) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(*2*) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(*3*) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole.

(*4*) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

Instalment deliveries.

38. (*1*) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(*2*) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

Delivery to carrier or wharfinger.

39. (*1*) Where, in pursuance of a contract of sale, the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is *primâ facie* deemed to be a delivery of the goods to the buyer.

(*2*) Unless otherwise authorised by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(*3*) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

Risk where goods are delivered at distant place.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Buyer's right of examining the goods.

41. (*1*) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(*2*) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable

opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance.

42. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Buyer not bound to return rejected goods.

43. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods.

44. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

CHAPTER V.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

"Unpaid seller" defined.

45. (*1*) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Act—

(*a*) when the whole of the price has not been paid or tendered;

(*b*) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(*2*) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's rights.

46. (*1*) Subject to the provisions of this Act and of any law for the time being in force, notwithstanding that the property in the goods may

have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—

(*a*) a lien on the goods for the price while he is in possession of them;

(*b*) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;

(*c*) a right of re-sale as limited by this Act.

(*2*) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

Unpaid seller's lien.

Seller's lien.

47. (*1*) Subject to the provisions of this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:—

(*a*) where the goods have been sold without any stipulation as to credit;

(*b*) where the goods have been sold on credit, but the term of credit has expired;

(*c*) where the buyer becomes insolvent.

(*2*) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

Part delivery.

48. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

Termination of lien.

49. (*1*) The unpaid seller of goods loses his lien thereon—

(*a*) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(*b*) when the buyer or his agent lawfully obtains possession of the goods;

(*c*) by waiver thereof.

(*2*) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

Stoppage in transit.

Right of stoppage in transit.

50. Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

Duration of transit.

51. (*1*) Goods are deemed to be in course of transit from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(*2*) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(*3*) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(*4*) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(*5*) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer.

(*6*) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end.

(*7*) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

How stoppage in transit is effected.

52. (*1*) The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(*2*) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller.

Transfer by buyer and seller.

Effect of sub-sale or pledge by buyer.

53. (*1*) Subject to the provisions of this Act, the unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto:

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(*2*) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

Sale not generally rescinded by lien or stoppage in transit.

54. (*1*) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or stoppage in transit.

(*2*) Where the goods are of a perishable nature, or where the unpaid seller who has exercised his right of lien or stoppage in transit gives notice to the buyer of his intention to re-sell, the unpaid seller may, if the buyer does not within a reasonable time pay or tender the price, re-sell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the re-sale.

(*3*) Where an unpaid seller who has exercised his right of lien or stoppage in transit re-sells the goods, the buyer acquires a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(*4*) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default, re-sells

the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

CHAPTER VI.

SUITS FOR BREACH OF THE CONTRACT.

Suit for price.

55. (*1*) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

(*2*) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

Damages for non-acceptance.

56. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

Damages for non-delivery.

57. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.

Specific performance.

58. Subject to the provisions of Chapter II of the Specific Relief Act, 1877, in any suit for breach of contract to deliver specific or ascertained goods, the Court may, if it thinks fit, on the application of the plaintiff, by its decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the decree.

I of 1877.

Remedy for breach of warranty.

59. (*1*) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

(*a*) set up against the seller the breach of warranty in diminution or extinction of the price; or

(*b*) sue the seller for damages for breach of warranty.

(*2*) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

Repudiation of contract before due date.

60. Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

Interest by way of damages and special damages.

61. (*1*) Nothing in this Act shall affect the right of the seller or the buyer to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed.

(*2*) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price—

(*a*) to the seller in a suit by him for the amount of the price—from the date of the tender of the goods or from the date on which the price was payable;

(*b*) to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—from the date on which the payment was made.

CHAPTER VII.

MISCELLANEOUS.

Exclusion of implied terms and conditions.

62. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

Reasonable time a question of fact.

63. Where in this Act any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

Auction sale.

64. In the case of a sale by auction—

(*1*) where goods are put up for sale in lots, each lot is *primâ facie* deemed to be the subject of a separate contract of sale;

(*2*) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;

(*3*) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;

(*4*) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to

bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;

(*5*) the sale may be notified to be subject to a reserved or upset price;

(*6*) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

IX of 1872. **65.** Chapter VII of the Indian Contract Act, 1872, is hereby repealed. Repeal.

66. (*1*) Nothing in this Act or in any repeal effected thereby shall affect or be deemed to affect— Savings.

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to the sale of goods which is not expressly repealed by this Act, or

(*e*) any rule of law not inconsistent with this Act.

(*2*) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.

(*3*) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

ACT No. IV OF 1930.[1]

[*15th March, 1930.*]

An Act to amend the Indian Contract Act, 1872.

IX of 1872. WHEREAS it is expedient to amend the Indian Contract Act, 1872, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Contract (Amendment) Act, 1930. Short title and commencement.

(*2*) It shall come into force on the first day of July, 1930.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 180; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 12.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

Amendment of section 178, Act IX of 1872.

2. For section 178 of the Indian Contract Act, 1872, the following sections shall be substituted, namely:— IX of 1872.

Pledge by mercantile agent.

"178. Where a mercantile agent is, with the consent of the owner, in possession of goods or the documents of title to goods, any pledge made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the pawnee acts in good faith and has not at the time of the pledge notice that the pawnor has not authority to pledge.

Explanation.—In this section, the expressions 'mercantile agent' and 'documents of title' shall have the meanings assigned to them in the Indian Sale of Goods Act, 1930. III of 1930.

Pledge by person in possession under voidable contract.

178A. When the pawnor has obtained possession of the goods pledged by him under a contract voidable under section 19 or section 19A, but the contract has not been rescinded at the time of the pledge, the pawnee acquires a good title to the goods, provided he acts in good faith and without notice of the pawnor's defect of title."

ACT No. V OF 1930.[1]

[*15th March, 1930.*]

An Act to amend the Transfer of Property (Amendment) Act, 1929, for a certain purpose.

WHEREAS it is expedient to amend the Transfer of Property (Amendment) Act, 1929, for the purpose hereinafter appearing; It is hereby XX of 1929. enacted as follows:—

Short title.

1. This Act may be called the Transfer of Property (Amendment) Act, 1930.

Amendment of section 4, Act XX of 1929.

2. In section 4 of the Transfer of Property (Amendment) Act, 1929,— XX of 1929.

(*i*) in *Explanation 1*, for the words "if the instrument has been registered under sub-section (*2*) of section 30 of the Indian Registration Act, 1908, from the earliest date on which a memorandum thereof has XVI of 1908. been filed by any Sub-Registrar under section 66 of that Act" the following words shall be substituted, namely:—

[*Supra*, p. 80.]

(*ii*) in proviso (2) to *Explanation 1*, after the word "instrument" the words "or memorandum" shall be inserted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 15.

ACT No. VI OF 1930.[1]

[*15th March, 1930.*]

An Act further to amend the Prisons Act, 1894, for a certain purpose.

IX of 1894. WHEREAS it is expedient further to amend the Prisons Act, 1894, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Prisons (Amendment) Act, 1930.

Amendment of section 27, Act IX of 1894. IX of 1894. **2.** In clause (*2*) of section 27 of the Prisons Act, 1894, for the word " eighteen " the word " twenty-one " shall be substituted.

ACT No. VII OF 1930.[2]

[*16th March, 1930.*]

An Act further to amend the Indian Patents and Designs Act, 1911, for certain purposes.

WHEREAS it is expedient further to amend the Indian Patents and II of 1911. Designs Act, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement. **1.** (*1*) This Act may be called the Indian Patents and Designs (Amendment) Act, 1930.

(*2*) It shall come into force on the 1st day of July, 1930.

Amendment of section 2, Act II of 1911. II of 1911. **2.** In section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act),—

(*a*) for clause (*5*) the following clause shall be substituted, namely:—

" (*5*) ' design ' means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye: but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 478, or property mark as defined in section 479, XLV of 1860. of the Indian Penal Code:";

(*b*) for clause (*12*) the following clause shall be substituted, namely:—

" (*12*) ' patentee ' means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent:"; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 76.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 181; for Report of Select Committee, *see ibid*, 1929, Pt. V, p. 211.

(*c*) in clause (*14*), for the words " new and original " the words " new or original " shall be substituted.

Amendment of section 5, Act II of 1211.

3. In section 5 of the said Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*b*), the words " or relate to more than one invention " shall be omitted;

(*ii*) after clause (*e*) the following shall be inserted, namely:—

" or

(*f*) the specification relates to more than one invention,"; and

(*iii*) the following proviso shall be added to the sub-section, namely:—

" Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction,"; and

(*b*) in sub-section (*4*), for the proviso the following proviso shall be substituted, namely:—

" Provided that where, before, or within three months after, the expiration of the said period of twelve months, a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during, but not beyond, the period of extensions so requested."

Omission of section 8 from Act II of 1911.

4. Section 8 of the said Act shall be omitted.

Amendment of section 9, Act II of 1911.

5. In sub-section (*1*) of section 9 of the said Act, for the word " three " the word " four " shall be substituted.

Amendment of section 10, Act II of 1911.

6. (*1*) After sub-section (*1*) of section 10 of the said Act the following sub-section shall be inserted, namely:—

" (*1A*) Notwithstanding anything contained in sub-section (*1*), where—

(*a*) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(*b*) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be:

Provided that—

(*i*) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(*ii*) an appeal from any such direction shall lie to the Governor General in Council."

(*2*) In sub-section (*2*) of the same section,—

(*i*) in clause (*b*) of the proviso, the words " or by a reference under section 8," shall be omitted; and

(*ii*) in clause (*d*), for the words " in consequence of the neglect or failure of the applicant to pay any fee " the words " for any reason " shall be substituted; after the words " allowed by " the words " any of the foregoing provisions of " shall be inserted; and for the words " to such an extent as may be prescribed " the words " to the extent applied for but not exceeding three months " shall be substituted.

Amendment of section 11, Act II of 1911.

7. In section 11 of the said Act, for the words " publication of the specification " the words " advertisement of the acceptance of the application " shall be substituted.

Amendment of section 13, Act II of 1911.

8. For sub-section (*2*) of section 13 of the said Act the following sub-section shall be substituted, namely:—

" (*2*) Where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 9 on the ground stated in clause (*a*) of sub-section (*1*) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

Amendment of section 14, Act II of 1911.

9. In section 14 of the said Act,—

(*a*) in sub-section (*1*), for the word "fourteen" the word "sixteen" shall be substituted;

(*b*) after the same sub-section the following sub-sections shall be inserted, namely:—

"(*1A*) Any patent the original term of which had not expired on or before the 1st day of July, 1930, shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(*1B*) Where any party to a contract with the patentee or any other person entered into before the 1st day of January, 1930, is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne."; and

(*c*) in sub-section (*2*), for the proviso the following proviso shall be substituted, namely:—

"Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for."

Amendment of section 15, Act II of 1911.

10. In section 15 of the said Act,—

(*a*) in sub-section (*1*), the words "after advertising in the prescribed manner his intention to do so," shall be omitted; and after the words "prescribed fee" the following shall be added, namely:—

"and must be advertised by the patentee within the prescribed time and in the prescribed manner";

(*b*) in sub-section (*2*), after the word "may" the words "within such time as may be prescribed and on payment of the prescribed fee," shall be inserted; and

(*c*) in sub-section (*6*), for the words "seven" and "fourteen" the words "five" and "ten" shall be substituted, respectively.

11. After section 15 of the said Act the following section shall be inserted, namely:— Insertion of new section 15A in Act II of 1911.

" 15A. (*1*) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid. Patents of addition.

(*2*) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal;

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(*3*) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

12. In section 18 of the said Act, after the word " disclaimer " the words ", correction or explanation " shall be inserted. Amendment of section 18, Act II of 1911.

13. In section 19 of the said Act, for the words " before the disclaimer, correction or explanation " the words " before the date of the decision allowing the amendment " shall be substituted. Amendment of section 19, Act II of 1911.

14. In sub-section (*4*) of section 20 of the said Act, the words " and, unless such copies have been so supplied, such deeds, licenses or other documents shall not be received as evidence of any transaction affecting a patent " shall be omitted. Amendment of section 20, Act II of 1911.

15. For section 21 of the said Act the following sections shall be substituted, namely:— Substitution of new sections for section 21, Act II of 1911.

" 21. (*1*) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against His Majesty the King as it has against a subject. Patent to bind Crown.

(*2*) The officers or authorities administering any department of the service of His Majesty may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor General in Council, between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the Crown.

(*3*) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of His Majesty (such invention not having been communicated directly or indirectly by the applicant or patentee), such officers or authorities, or such of their agents, contractors, or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Crown, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(*4*) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee, or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Crown or from such officers or authorities in respect of such patent:

Provided that, if the inventor or patentee is a Government servant and the subject-matter of the invention is certified by the Governor General in Council or Local Government to be connected with work done in the course of such service, any such dispute shall be settled by the Governor General in Council after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(*5*) The right to use an invention for the services of the Crown under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Crown.

(*6*) Nothing in this section shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

Assignment of patent to the Secretary of State for India in Council.

21A. (*1*) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for India in Council on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Secretary of State for India in Council may be a party to the assignment.

(*2*) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State for India in Council on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the Secretary of State for India in Council.

(*3*) Where any such assignment has been made, the Governor General in Council may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(*4*) If the Governor General in Council so certify, the application and specifications, with the drawings (if any) and any amendment of the specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the Governor General in Council.

(*5*) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller, and shall not be opened save under the authority of an order of the Governor General in Council.

(*6*) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Governor General in Council to receive it, and shall, if returned to the Controller, be again kept sealed by him.

(*7*) On the expiration of the term of the patent, the sealed packet shall be delivered to the Governor General in Council.

(*8*) Where the Governor General in Council certifies as aforesaid after an application for a patent has been left at the Patent Office but before the publication of the specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Governor General in Council.

(*9*) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Governor General in Council as aforesaid.

(*10*) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(*11*) The Governor General in Council may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(*12*) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State for India in Council or the Governor General in Council or to any person or persons authorised by the Secretary of State for India in Council or the Governor General in Council to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same."

Amendment of section 22, Act II of 1911.

16. In section 22 of the said Act,—

(*a*) in sub-section (*1*), for the words " the reasonable requirements of the public with respect to a patented invention have not been satisfied " the words " the demand for a patented article in British India is not being met to an adequate extent and on reasonable terms " shall be substituted;

(*b*) in sub-section (*4*), for the words " the reasonable requirements of the public with reference to the patented invention have not been satisfied " the words " the demand for the patented article in British India is not being met to an adequate extent and on reasonable terms "

shall be substituted; and for the words " the reasonable requirements of the public will not be satisfied " the words " the demand will not be adequately met " shall be substituted;

(*c*) in sub-section (*5*),—

(*i*) for the words " the reasonable requirements of the public shall not be deemed to have been satisfied " the words " the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms " shall be substituted;

(*ii*) in clause (*a*), the words " or the demand for the patented article or the article produced by the patented process is not reasonably met " shall be omitted; and

(*iii*) in clause (*b*), the words " before or after the commencement of this Act " shall be omitted; and

(*d*) sub-section (*6*) shall be omitted.

17. In section 23 of the said Act,— Amendment of section 23, Act II of 1911.

(*a*) in sub-section (*1*), for the words " for the revocation of the patent " the words " for relief under this section " shall be substituted; and

(*b*) in sub-section (2), after the words " may make an order " the letter and brackets " (*a*) " shall be inserted, and after clause (*ii*) the following shall be added, namely:—

" or

(*b*) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the Governor General in Council may direct."

18. After section 23 of the said Act the following section shall be inserted, namely:— Insertion of new section 23A in Act II of 1911.

" 23A. An order of the High Court under section 22 or of the Governor General in Council under section 22 or section 23, directing the grant of any license, shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and executed by the patentee and all other necessary parties." Operation of order under section 22 or section 23.

19. In clause (*g*) of sub-section (*1*) of section 26 of the said Act, for the words " a part ", in both places where they occur, the words " the whole or a part " shall be substituted. Amendment of section 26, Act II of 1911.

20. In sub-section (*1*) of section 35 of the said Act, for the words " either of " the word " all " shall be substituted. Amendment of section 35, Act II of 1911.

Insertion of new section 35A in Act II of 1911.

21. After section 35 of the said Act the following section shall be inserted, namely:—

Grant of relief in respect of particular claims.

"35A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there."

Amendment of section 36, Act II of 1911.

22. In section 36 of the said Act,—

(*1*) for the words "to be the patentee of an invention" the words "to have an interest in a patent" shall be substituted;

(*2*) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted; and

(*3*) for the proviso the following shall be substituted, namely:—

"Provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence."

Amendment of section 44, Act II of 1911.

23. In section 44 of the said Act,—

(*1*) in clause (*a*), for the words "new and original design" the words "new or original design" shall be substituted; and

(*2*) after clause (*b*) the following proviso shall be added, namely:—

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration."

Insertion of new sections 51A and 51B in Act II of 1911.

24. After section 51 of the said Act the following sections shall be inserted, namely:—

Cancellation of registration.

"51A. (*1*) Any person interested may present a petition for the cancellation of the registration of a design—

(*a*) at any time after the registration of the design, to the High Court on any of the following grounds, namely:—

(*i*) that the design has been previously registered in British India; or

(*ii*) that it has been published in British India prior to the date of registration; or

(*iii*) that the design is not a new or original design; or

(*b*) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (*i*) and (*ii*) of clause (*a*).

(*2*) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of designs to bind the Crown.

51B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs."

Amendment of section 62, Act II of 1911.

25. In section 62 of the said Act, clause (*b*) shall be omitted.

Amendment of section 63, Act II of 1911.

26. In section 63 of the said Act,—

(*a*) for sub-sections (*1*) and (*2*) the following sub-sections shall be substituted, namely:—

" (*1*) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(*2*) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs as the case may be, with particulars of the instrument, if any, creating such interest."; and

(*b*) after sub-section (*3*) the following sub-section shall be added, namely:—

" (*4*) Except in the case of an application made under section 64, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (*1*) and (*2*) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright

in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of section 64, Act II of 1911.

27. In section 64 of the said Act,—

(*a*) in sub-section (*1*), for the words "A High Court" the words "The Controller" and for the words "as it may think fit" the words "as he thinks fit and rectify the register accordingly" shall be substituted, respectively;

(*b*) in sub-section (*2*), for the word "Court" the word "Controller" shall be substituted;

(*c*) for sub-section (*3*) the following sub-section shall be substituted, namely:—

"(*3*) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred."; and

(*d*) for sub-section (*5*) the following sub-section shall be substituted, namely:—

"(*5*) Nothing in this section shall be deemed to empower the Controller—

(*a*) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(*b*) to make any such order cancelling the registration of a design as is provided for in section 51A."

Amendment of section 69, Act II of 1911.

28. Section 69 of the said Act shall be re-numbered as sub-section (*1*) of that section, and to that section as so re-numbered the following sub-section shall be added, namely:—

"(*2*) An appeal shall lie to the Governor General in Council from an order of the Controller under this section."

Amendment of section 70, Act II of 1911.

29. In section 70 of the said Act, for the word "two", in both places where it occurs, the word "three" shall be substituted.

Insertion of new section 74A in Act II of 1911.

30. After section 74 of the said Act the following section shall be inserted, namely:—

Security for costs.

"74A. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the

Controller under this Act, neither resides nor carries on business in British India, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal.'"

Amendment of section 77, Act II of 1911.

31. In section 77 of the said Act,—

(*1*) after clause (*e*) of sub-section (*1*) the following clauses shall be inserted, namely:—

"(*ee*) for the manner in which fees leviable under this Act may be paid;

(*eee*) for ensuring secrecy with respect to patents to which section 21A applies;"; and

(*2*) after sub-section (*2*) the following sub-section shall be inserted, namely:—

" (*2A*) Nothing in sub-section (*2*) shall apply in the case of rules made for the purpose specified in clause (*eee*) of sub-section (*1*); and any such rules may modify any of the provisions of this Act so far as may be necessary for that purpose."

Amendment of section 78A, Act II of 1911.

32. In section 78A of the said Act,—

(*1*) in clause (*a*) of the proviso to sub-section (*1*), for the word " four " the word " six " shall be substituted; and

(*2*) in sub-section (*4*), after the words " His Majesty's dominions ", where they first occur, the words " or of any State in India ", and after those words where they occur for the second time, the words " or in that State, as the case may be," shall be inserted.

Amendment of the Schedule to Act II of 1911.

33. In the Schedule to the said Act, in the entry specifying the fee payable before the expiration of the 8th year from the date of a patent, for the figures " 50 " the figures " 100 " shall be substituted, and for the last five entries the following shall be substituted, namely:—

	Rs.
" Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that the fees for two or more years may be paid in advance.	
On application to extend the term of a patent . . .	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15 .	150
On application for registration of a design	3 "

ACT No. VIII OF 1930.[1]

[*16th March, 1930.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule;

AND WHEREAS it is also expedient that the enactments specified in the Second Schedule, which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1930.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 75.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

<table>
<tr><th>Year.
1</th><th>No.
2</th><th>Short title.
3</th><th>Amendments.
4</th></tr>
<tr><td>1860</td><td>XLV</td><td>The Indian Penal Code</td><td>In section 40, for the word "chapter" where it first occurs the word "chapters" shall be substituted.</td></tr>
<tr><td>1865</td><td>XV</td><td>The Parsi Marriage and Divorce Act, 1865.</td><td>In the Schedule, for the last two columns the following columns shall be substituted, namely :—
<table><tr><td>"Signatures of the contracting parties.</td><td>Signatures of the fathers or guardians of contracting parties under twenty-one years of age.</td><td>Signatures of two witnesses."</td></tr></table></td></tr>
<tr><td>1898</td><td>Bur. Act III.</td><td>The Burma Municipal Act, 1898.</td><td>In clause (i) of division (A) of sub-section (1) of section 46, for the word "with" the word "without" shall be substituted.</td></tr>
<tr><td>1899</td><td>II</td><td>The Indian Stamp Act, 1899</td><td>In sub-clause (a) of clause (8) of section 2, for the words "respectively under the administration of the Lieutenant-Governors of Bihar and Orissa and the North-Western Provinces and the Chief Commissioner of Oudh" the words "under the administration of the Local Government of Bihar and Orissa" shall be substituted.</td></tr>
<tr><td>1903</td><td>XV</td><td>The Indian Extradition Act, 1903.</td><td>In the First Schedule, for the words "Indian State Forces" the words "Indian States Forces" shall be substituted.</td></tr>
<tr><td>1908</td><td>IX</td><td>The Indian Limitation Act, 1908.</td><td>In Article 43 of the First Schedule, for the words and figures "Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140" the words and figures "Indian Succession Act, 1925, section 360 or section 361" shall be substituted.

In Article 151 of the First Schedule, for the words "Madras and Bombay or the Chief Court of the Punjab or the Chief Court of Lower Burma" the words "Madras, Bombay, Lahore and Rangoon" shall be substituted.</td></tr>
</table>

(*The First Schedule.*)

Year.	No.	Short title.	Amendments.
1	2	3	4
1911	VIII	The Indian Army Act, 1911 .	In sub-section (*2*) of section 113, at the end of clause (*i*) the word "and" shall be omitted, and at the end of clause (*ii*) the word "and" shall be added.
1911	XII	The Indian Factories Act, 1911.	In sub-section (*1*) of section 36, at the end of clause (*c*) the word "and" shall be omitted, and at the end of clause (*d*) the word "and" shall be added.
1915	XVI	The Benares Hindu University Act, 1915.	In sub-section (*5*) of section 17, and in sub-section (*5*) of section 18, after the word "remit" the word "them" shall be inserted.
1924	II	The Cantonments Act, 1924 .	In sub-section (*1*) of section 95, after the words "any sum is due" the words "or is about to become due" shall be inserted. In section 150, for the word "Whoever" the words "Any person" shall be substituted. In section 156, for the word "their" the word "other" shall be substituted. In section 196, for the words "to an additional fine" the words "with an additional fine" shall be substituted. In section 197, for the word "making" the word "working" shall be substituted. In section 231, before the word "executed" the words "installed or" shall be inserted.
1929	XI	The Bengal Pilot Service (Centralisation of Administration) Act, 1929.	In sub-section (*1*) of section 2, for the words "or the words" the words ", 'Lieutenant-Governor' or" shall be substituted.
1929	XIX	The Child Marriage Restraint Act, 1928.	In sub section (*1*) of section 1, for the figures "1928" the figures "1929" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(*See section 3.*)

Year.	No.	Short title.	Extent of Repeal.
1	2	3	4
1878	XI	The Indian Arms Act, 1878 .	In the First Schedule, the entry relating to Regulation IX of 1874.
1879	VI	The Elephants' Preservation Act, 1879.	Section 2.
1882	XIX	The Punjab University Act, 1882.	In section 20, the words and figures "under section 18".

Year.	No.	Short title.	Extent of Repeal.
1	2	3	4
1888	II	The Petroleum (Customs-duty) Act, 1888.	So much as has not been repealed.
1908	IX	The Indian Limitation Act, 1908.	Sections 30 and 31 and the Second Schedule.
1920	V	The Provincial Insolvency Act, 1920.	In clause (*a*) of section 82, the words and figures "or section 8 of the Lower Burma Courts Act, 1900".
1920	XLIX	The Auxiliary Force Act, 1920	In clause (*c*) of sub-section (*2*) of section 30 the words "and other persons who are not British subjects".
1923	XV	The Indian Income-tax (Amendment) Act, 1923.	Section 3.
1924	V	The Indian Penal Code (Amendment) Act, 1924.	The whole.
1926	XIX	The Indian Finance Act, 1926.	Section 6 and Schedules I and II.
1927	V	The Indian Finance Act, 1927.	Sub-section (*3*) of section 1, sections 2, 3, 6 and 7, and Schedules I and III.
1928	V	The Indian Finance Act, 1928.	The whole.
1928	XVIII	The Repealing and Amending Act, 1928.	Sections 3 and 4 and the Second Schedule.

ACT No. IX OF 1930.[1]

[*20th March, 1930.*]

An Act further to amend the Cantonments (House-Accommodation) Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Cantonments (House-Accommodation) Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

VI of 1923.

1. This Act may be called the Cantonments (House-Accommodation Amendment) Act, 1930. **Short title.**

2. In section 2 of the Cantonments (House-Accommodation) Act, 1923 (hereinafter referred to as the said Act),— **Amendment of section 2, Act VI of 1923.**

VI of 1923.

(*a*) clause (*b*) of sub-section (*1*) shall be omitted and clause (*bb*) shall be re-lettered as clause (*b*);

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 192; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 47.

(*b*) in clause (*d*) of sub-section (*1*), after the words " in a cantonment " the following words shall be added, namely:—

" or, if that officer is the Officer Commanding the District, the military officer who would be in command of those forces in the absence of the Officer Commanding the District ";

and

(*c*) in sub-section (*2*), for the words " District Magistrate " the word " Collector " shall be substituted.

Substitution of new section for section 6, Act VI of 1923.

3. For section 6 of the said Act the following section shall be substituted, namely:—

Conditions on which houses may be appropriated.

" 6. (*1*) Where—

(*a*) a military officer who is stationed in or has been posted to the cantonment, or a President of a military mess in the cantonment, applies in writing to the Officer Commanding the Station stating that he is unable to secure suitable accommodation in the cantonment for himself or the mess on reasonable terms by private agreement, and that no suitable house or quarter belonging to Government is available for his occupation or for the occupation of the mess, and the Officer Commanding the Station is satisfied on inquiry of the truth of the facts so stated; or

(*b*) the Officer Commanding the Station is satisfied on inquiry that there is not in the cantonment a sufficient and assured supply of houses available at reasonable rates of rent by private agreement to meet the requirements of the military officers and military messes whose accommodation in the cantonment is in his opinion necessary or expedient,

the Officer Commanding the Station may, with a view to enforcing the liability under section 5, serve a notice on the owner of any house which appears to him to be suitable for occupation by a military officer or a military mess, as the case may be, within the cantonment, or, if this Act is in force in part only of the cantonment, within that part, requiring the owner to permit the house to be inspected, measured and surveyed by such person and on such date, not being less than three clear days from the service of the notice, and at such time between sunrise and sunset, as may be specified in the notice.

(*2*) On the date and at the time so specified the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house and, if he refuses or neglects to do so, such person may, subject to any rules

made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose."

Amendment of section 7, Act VI of 1923.

4. In section 7 of the said Act,—

(*a*) in sub-section (*1*), the words "with the previous sanction of the Officer Commanding the District," shall be omitted; and

(*b*) to sub-section (*3*) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall be deemed to affect the right of the Government to avoid the lease in any such event as is specified in clause (*e*) of section 108 of the Transfer of Property Act, 1882."

IV of 1882.

Omission of section 8, Act VI of 1923.

5. Section 8 of the said Act shall be omitted.

Amendment of section 13, Act VI of 1923.

6. In sub-section (*2*) of section 13 of the said Act, for the words "a Committee of Arbitration" the words "a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted.

Amendment of section 15 Act VI of 1923.

7. In section 15 of the said Act,—

(*a*) in sub-section (*1*), for the word "fifteen" the word "thirty" shall be substituted, and for the words "require that the matter be referred by the Officer Commanding the Station to a Committee of Arbitration" the words and figures "refer the matter to a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted; and

(*b*) in sub-section (*2*), for the word "requisition" the word "reference" shall be substituted.

Amendment of section 16, Act VI of 1923.

8. In section 16 of the said Act,—

(*a*) in sub-section (*1*), for the word "fifteen" the word "thirty" shall be substituted;

(*b*) in sub-section (*2*), for the word "fifteen" the word "thirty" shall be substituted, and for the words "require that the matter be referred by the Officer Commanding the Station to a Committee of Arbitration" the words and figures "refer the matter to a Civil Court, in accordance with the provisions of Chapter IV" shall be substituted; and

(*c*) after sub-section (*2*), the following sub-section shall be added, namely:—

"(*3*) Every reference under sub-section (*2*) shall be accompanied by an estimate of the repairs, if any, which the owner considers necessary in order to put the house into a state of reasonable repair."

Substitution of new section for section 17, Act VI of 1923.

9. For section 17 of the said Act the following section shall be substituted, namely:—

Power to have repairs executed and recover cost.

"17. If the owner fails to comply with a notice issued under sub-section (*1*) of section 16, the Military Engineer Services or the Public Works Department may, with the previous sanction of the Officer Commanding the Station and notwithstanding any right of reference conferred by that section, cause the repairs specified in the notice to be executed at the expense of the Government, and the cost thereof, or, where a reference has been made, the amount finally determined by the Civil Court, may be deducted from the rent payable to the owner."

Substitution of new Chapter for Chapter IV, Act VI of 1923.

10. For Chapter IV of the said Act, the following Chapter shall be substituted, namely:—

"CHAPTER IV.

PROCEDURE IN REFERENCES.

Jurisdiction in references.

19. All references under this Act shall be made by application to, and tried by, the Court of the District Judge.

Procedure and powers of the Court.

20. References under this Act shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the Court may exercise any of its powers under that Code. V of 1908.

Restriction of scope of inquiry.

21. The scope of the inquiry in a reference under this Act shall be restricted to a consideration of the matters referred to the Court in accordance with the provisions of this Act."

Substitution of new section for section 29, Act VI of 1923.

11. For section 29 of the said Act the following section shall be substituted, namely:—

Appeal to High Court.

"29. (*1*) An appeal shall lie to the High Court against the decision of the Court of the District Judge upon a reference tried by it.

(*2*) No appeal under this section shall be admitted unless it is made within thirty days from the date of the decision against which it is preferred.

(*3*) An appeal preferred under this section shall be deemed to be an appeal from an order within the meaning of section 108 of the Code of Civil Procedure, 1908." V of 1908.

12. For section 30 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 30, Act VI of 1923.

" 30. The owner or any tenant of a house in respect of which a notice has been issued under section 7 may, within a period of twenty-one days from the date of the service thereof, appeal to the Officer Commanding the District against the decision of the Officer Commanding the Station to appropriate the house." Appeal to Officer Commanding the District.

13. In section 32 of the said Act,— Amendment of section 32, Act VI of 1923.

(*a*) the words "or of the General Officer Commanding-in-Chief, the Command, as the case may be" shall be omitted; and

(*b*) after the proviso, the words " and in giving a decision the Officer Commanding the District shall record briefly the grounds therefor " shall be added.

14. In section 33 of the said Act, for the words " by sub-section (*2*) of that section " the word " therein " shall be substituted. Amendment of section 33, Act VI of 1923.

15. After section 34 of the said Act the following section shall be inserted, namely:— Insertion of new section 34A in Act VI of 1923.

" 34A. The period prescribed for making any reference or preferring any appeal under this Act shall be computed in accordance with the provisions of the Indian Limitation Act, 1908." Computation of periods of limitation. IX of 1908.

16. In section 35 of the said Act, clause (*a*) of sub-section (*2*) shall be omitted. Amendment of section 35, Act VI of 1923.

ACT No. X OF 1930.[1]

[*20th March, 1930.*]

An Act to amend the law relating to insolvency, for certain purposes.

WHEREAS it is expedient to amend the law relating to insolvency, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Insolvency Law (Amendment) Act, 1930. Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 70.

Amendment of section 2, Act III of 1909.

2. In clause (*c*) of section 2 of the Presidency-towns Insolvency Act, 1909 (hereinafter referred to as the said Act), after the words " acting official assignee ", the words " and a deputy official assignee, whether permanent or acting " shall be added. III of 1909.

Insertion of new section 18A in Act III of 1909.

3. After section 18 of the said Act, the following section shall be inserted, namely:—

Control over insolvency proceedings in subordinate Courts.

" 18A. (*1*) The Court may, at any time after the presentation of an insolvency petition, stay any insolvency proceedings pending against the debtor in any Court subject to the superintendence of the Court, and may, at any time after the making of an order of adjudication, annul an adjudication against the debtor made by any such Court.

(*2*) Where an adjudication is annulled under sub-section (*1*) all sales and dispositions of property and payments duly made and all acts done by the Court whose order is annulled, or by the receiver appointed by it or other person acting under his authority, shall be valid, but the property vested in such Court or receiver shall vest in the official assignee, and the Court may make such direction in regard to the custody of such property as it thinks fit.

(*3*) Notice of the order annulling an adjudication under sub-section (*1*) shall be published in the local official Gazette and in such other manner as may be prescribed."

Amendment of section 77, Act III of 1909.

4. In section 77 of the said Act,—

(*a*) in sub-section (*1*),—

(*i*) after the word " estates " the words " and such person or persons as he thinks fit to the office of deputy official assignee " shall be inserted, and

(*ii*) for the words " that office " the words " any of the said offices " shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

" (*1A*) Subject to rules made under section 112, the deputy official assignee shall have all the powers and shall discharge all the duties and in exercise of such powers and in the discharge of such duties shall be subject to all the liabilities of the official assignee under this Act."; and

(*c*) in sub-section (*2*), after the words " official assignee " the words " and every deputy official assignee " shall be inserted.

5. In sub-section (*2*) of section 112 of the said Act, after clause (*r*), the following clause shall be added, namely:— Amendment of section 112, Act III of 1909.

"(*s*) the distribution of work between the official assignee and his deputy or deputies".

V of 1920. **6.** In section 53 of the Provincial Insolvency Act, 1920, after the words "is adjudged insolvent" the words "on a petition presented" shall be inserted. Amendment of section 53, Act V of 1920.

ACT No. XI OF 1930.[1]

[*21st March, 1930.*]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Indian Tariff Act, VIII of 1894. 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1930. Short title and commencement.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

VIII of 1894. **2.** In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of the Second Schedule to Act VIII of 1894.

THE SCHEDULE.

(*See section 2.*)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. After Item No. 2, and under the heading "II.—*Raw materials and produce and articles mainly unmanufactured*—", the following heading and Item shall be inserted, namely:—

	"DYES AND COLOURS.	
2A	BARKS for tanning."	

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 66; for Report of Select Committee, *see ibid*, p. 77.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

[2] This Act came into force on the 29th March, 1930, *see* Gazette of India Extraordinary, 1930, p. 67.

2. In Item No. 9, after the words " calcium cyanamide ", the words " ammonium phosphates " shall be inserted.

3. In Item No. 12, sub-item (*a*) shall be omitted.

4. In Item No. 15, after the words " spraying machines ", the words " powder-blowers, white-ant exterminating machines," shall be inserted.

5. In Item No. 16,—

(*a*) for the words " DAIRY APPLIANCES ", the words " DAIRY AND POULTRY FARMING APPLIANCES " shall be substituted;

(*b*) for the words " and butter workers " the following words shall be substituted, namely:—

" butter workers, milk-bottle fillers and cappers, apparatus specially designed for testing milk and other dairy produce, and incubators "; and

(*c*) for the words " dairy purposes " the words " dairy and poultry farming purposes " shall be substituted.

6. In Item No. 18,—

(*a*) after the words " SUGAR MILLS ", the words " SUGAR CENTRIFUGES, SUGAR PUG-MILLS," shall be inserted; and

(*b*) after the words " animal power " the words, " and pans for boiling sugar-cane juice " shall be inserted.

7. In Item No. 18C,—

(*a*) after the words " electrotype blocks ", the words " process blocks and highly polished copper or zinc sheets specially prepared for making process blocks," shall be inserted;

(*b*) after the words " roller composition ", the words " lithographic nap rollers," shall be inserted;

(*c*) after the words " and casting machines ", the words " paper in rolls with side perforations to be used after further perforation for type-casting," shall be inserted; and

(*d*) for the words " and paging machines ", the words " paging machines and clarified liquid glue," shall be substituted.

8. After Item No. 25A, the following Item shall be inserted, namely:—

" 25B	PLANTS, living, all sorts."

9. In Item No. 34A, after the words and brackets " (except in tablets) ", the words " and such other substances as the Governor General in Council may, by notification in the Gazette of India, declare to be of a like nature or use to saccharine " shall be inserted.

10. In Item No. 43B, for the words " no core of which ", the words " no core of which, other than one specially designed as a pilot core " shall be substituted.

11. In Item No. 63, the words " and component parts thereof " shall be omitted.

12. In Item No. 85, for the words " gold and silver thread ", the words " articles made of gold or silver thread " shall be substituted.

13. In Item No. 90A, for the words " any one core of which " the words " any one core of which, not being one specially designed as a pilot core," shall be substituted.

14. After Item No. 90A, the following Item shall be inserted, namely:—

" 90B		DOMESTIC REFRIGERATORS."

15. In Item No. 101, after the word and figures " No. 23 ", the words and figures " and No. 138 " shall be inserted.

16. The heading " GLASSWARE AND EARTHENWARE " and Item No. 131 shall be omitted; and Items Nos. 132, 133 and 134 shall be renumbered as Items Nos. 131, 132 and 133, respectively.

17. Under the heading " MISCELLANEOUS " and before Item No. 135, the following shall be inserted as Item No. 134, namely:—

" 134		BANGLES, beads and false pearls."

18. In Item No. 136, after the word " manufactured ", the words " not otherwise specified " shall be inserted.

ACT No. XII OF 1930.[1]

[*21st March, 1930.*]

An Act to amend the law relating to the fostering and development of the steel industry in British India for certain purposes.

WHEREAS it is expedient to amend the law relating to the fostering and development of the steel industry in British India for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Steel Industry (Protection) Act, 1930.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 67; for Report of Select Committee, *see ibid*, p. 79.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

[2] This Act came into force on the 29th March, 1930, *see* Gazette of India Extraordinary, 1930, p. 67.

Amendment of Second Schedule to Act VIII of 1894.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall VIII of 1894. be made the amendments specified in the Schedule to this Act.

THE SCHEDULE.

(*See section 2.*)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In item No. 61, in the fifth sub-item (relating to IRON OR STEEL railway track material not otherwise specified), after the words "fastenings therefor", the words "other than tie-bars" shall be inserted.

2. In item No. 62, in the fifth sub-item (relating to STEEL, bar and rod), in part (*c*) thereof—

(*a*) for the entry "(*i*) rounds under $\frac{1}{2}$ inch diameter", the entry "(*i*) rounds not over 7/16 inch diameter" shall be substituted; and

(*b*) for the entry "(*ii*) squares under $\frac{1}{2}$ inch side" the entry "(*ii*) squares not over 7/16 inch side" shall be substituted.

3. In Item No. 150,—

(*a*) in part (*a*) of sub-item A, entry (*iii*) relating to spikes and tie-bars shall be omitted;

(*b*) in part (*b*) of sub-item A, the words "spikes and tie-bars" shall be omitted; and

(*c*) the following sub-item shall be added, namely:—

"D. Spikes and tie-bars—	
of British manufacture	Rs. 26 per ton.
not of British manufacture . . .	Rs. 37 per ton."

ACT No. XIII OF 1930.[1]

[*24th March, 1930.*]

An Act further to amend the Inland Steam-vessels Act, 1917, for certain purposes.

WHEREAS it is expedient further to amend the Inland Steam-vessels Act, 1917, for the purposes hereinafter appearing; It is hereby enacted I of 1917. as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Inland Steam-vessels (Amendment) Act, 1930.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 25; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 13.
This Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

(*2*) It shall come into force on the first day of January, 1931, except clause (*b*) of sub-section (*1*) of section 54A of the Inland Steam-vessels
I of 1917. Act, 1917, as hereby enacted, which shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

I of 1917. **2.** In Chapter VI of the Inland Steam-vessels Act, 1917, after section 54 the following sections shall be inserted, namely:— Insertion of new sections 54A and 54B in Act I of 1917.

"54A. (*1*) The Governor General in Council may, by notification in the Gazette of India, after such inquiry as he may consider necessary, in respect of any system of inland waterways, or of any stretch of inland waterway, or of the run between any two stations on an inland waterway,— Power of Governor General in Council to fix maximum and minimum rates for passenger fares and freight for goods.

(*a*) fix the maximum or minimum rate per mile which may be charged for passenger fares for passengers of any class travelling on inland steam-vessels;

(*b*) fix the maximum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels;

(*c*) fix the minimum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels; and

(*d*) declare what shall be deemed to be the distance between any two stations on an inland waterway for the purpose of calculating passengers' fares or freight on goods where maximum or minimum rates have been fixed under this section.

(*2*) The Governor General in Council shall not fix any minimum rate under clause (*a*) or clause (*c*) of sub-section (*1*) in respect of any class of passengers or description of goods carried on any system of waterways, or stretch of waterway, or on the run between any two stations on an inland waterway, unless he is satisfied that the rates charged on any inland steam-vessel or group of such vessels in respect of such passengers or goods have been reduced to such an extent as to disclose an intention to force any other inland steam-vessel or group of such vessels to cease from carrying such passengers or goods.

54B. The Local Government may make rules providing for the appointment, constitution, procedure and functions of Committees to advise the owners, agents and charterers of inland steam-vessels on questions affecting the interests of passengers and shippers of goods." Power to make rules providing for the appointment of Advisory Committees.

ACT No. XIV OF 1930.[1]

[*26th March, 1930.*]

An Act further to amend the Indian Railways Act, 1890, for certain purposes.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purposes hereinafter appearing; It is hereby enacted as follows:— IX of 1890.

Short title and commencement.

1. (*1*) This Act may be called the Indian Railways (Amendment) Act, 1930.

(*2*) This section shall come into force at once; and the Governor General in Council may, by notification in the Gazette of India, direct that the other provisions of this Act shall come into force in respect of any railway on such date as he may by the notification appoint.

Insertion of new Chapter VIA in Act IX of 1890.

2. After Chapter VI of the Indian Railways Act, 1890, the following Chapter shall be inserted, namely:— IX of 1890.

"CHAPTER VIA.

Limitation of employment of railway servants.

Definitions.

71A. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) the employment of a railway servant is said to be 'essentially intermittent' when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention; and

(*b*) except in section 71B, a 'railway servant' means a railway servant to whom this Chapter applies.

Application of Chapter VIA.

71B. This Chapter applies only to such railway servants or classes of railway servants as the Governor General in Council may, by rules made under section 71E, prescribe;

Limitation of hours of work.

71C. (*1*) A railway servant, other than a railway servant whose employment is essentially intermittent, shall not be employed for more than sixty hours a week on the average in any month.

(*2*) A railway servant whose employment is essentially intermittent shall not be employed for more than eighty-four hours in any week.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 147; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 56.

This Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

(*3*) Subject to rules made under section 71E, temporary exemptions of railway servants from the provisions of sub-section (*1*) and sub-section (*2*) may be made—

(*a*) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling-stock, or in any emergency which could not have been foreseen or prevented; and

(*b*) in cases of exceptional pressure of work not falling within the scope of clause (*a*):

Provided that a railway servant exempted under clause (*b*) shall be paid for overtime at not less than one and a quarter times his ordinary rate of pay.

Grant of periodical rest.

71D. (*1*) A railway servant shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours:

Provided that this sub-section shall not apply to a railway servant whose employment is essentially intermittent, or to a railway servant to whom sub-section (*2*) applies.

(*2*) The Governor General in Council may, by rules made under section 71E, specify the railway servants or classes of railway servants to whom periods of rest may be granted on a scale less than that laid down in sub-section (*1*), and may prescribe the periods of rest to be granted to such railway servants.

(*3*) Subject to rules made under section 71E, temporary exemptions from the grant of periods of rest may be made in the cases or circumstances specified in sub-section (*3*) of section 71C:

Provided that a railway servant shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

Power to make rules.

71E. (*1*) The Governor General in Council may make rules—

(*a*) prescribing the railway servants or classes of railway servants to whom this Chapter shall apply;

(*b*) prescribing the authorities who may declare that the employment of any railway servant or class of railway servants is essentially intermittent;

(*c*) specifying the railway servants or classes of railway servants to whom sub-section (*2*) of section 71D shall apply;

(*d*) prescribing the authorities by whom exemptions under sub-section (*3*) of section 71C or sub-section (*3*) of section 71D may be made;

(*e*) providing for the delegation of their powers by the authorities prescribed under clause (*d*); and

(*f*) providing for any other matter which is to be provided for by rules or which the Governor General in Council may deem to be requisite for carrying out the purposes of this Chapter.

(*2*) Such rules shall be subject to the provisions of section 143.

Railway servant to remain on duty.

71F. Nothing in this Chapter or the rules made thereunder shall authorise a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

Supervisors of Railway Labour.

71G. (*1*) The Governor General in Council may appoint persons to be Supervisors of Railway Labour.

(*2*) The duties of Supervisors of Railway Labour shall be—

(*a*) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed, and

(*b*) such other duties as the Governor General in Council may prescribe.

(*3*) A Supervisor of Railway Labour shall be deemed to be an Inspector for the purposes of sections 5 and 6.

Penalty.

71H. Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may extend to five hundred rupees."

ACT No. XV OF 1930.[1]

[*28th March, 1930.*]

An Act further to amend the Sea Customs Act, 1878, to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax, to vary the excise duty on kerosene leviable under the Indian Finance Act, 1922, and further to amend the Indian Paper Currency Act, 1923, and the Indian Finance Act, 1926.

WHEREAS it is expedient further to amend the Sea Customs Act, 1878, VIII of 1878. to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the VIII of 1894. Indian Post Office Act, 1898, to fix rates of income-tax, to vary the VI of 1898.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 84.

XII of 1922. X of 1923. XIX of 1926. excise duty on kerosene leviable under the Indian Finance Act, 1922, and further to amend the Indian Paper Currency Act, 1923, and the Indian Finance Act, 1926; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Indian Finance Act, 1930.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) Sections 3, 4A and 5 shall remain in force only up to the 31st day of March, 1931.

VIII of 1878. Amendment of section 42, Act VIII of 1878.

2. In section 42 of the Sea Customs Act, 1878, after the words "seven-eighths" the words "or, in the case of silver bullion, the whole" shall be inserted.

3. *Fixation of salt duty.—Spent.*

VIII of 1894. Amendment of Schedules II and III to Act VIII of 1894.

[1]**4.** The amendments specified in the First Schedule to this Act shall be made in Schedules II and III to the Indian Tariff Act, 1894.

4A. *Amendment of Schedule II, Act VIII of 1894.—Spent.*

5. *Postal rates.—Spent.*

6. *Income-tax and super-tax.—Spent.*

XII of 1922. Amendment of section 5, Act XII of 1925.

[1]**7.** In the proviso to section 5 of the Indian Finance Act, 1922, for the words "one anna" the words "one anna and six pies" shall be substituted.

8. *Amendment of section 19, Act X of 1923.—Virtually repealed by the Indian Finance Act, 1931.*

XIX of 1926. Repeal of section 7, Act XIX of 1926.

9. With effect from the 1st day of April, 1930, section 7 of the Indian Finance Act, 1926, shall be repealed.

SCHEDULE I.

Amendments to be made in Schedules II and III to the Indian Tariff Act. 1894.

[*See section 4.*]

1. In Item No. 19 of Schedule II, the words "nickel, bronze, and copper" shall be omitted.

2. In Item No. 20 of Schedule II, the words "and silver", in both places where they occur, shall be omitted.

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[1] This section had effect from 1st March, 1930, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1918 (16 of 1918).

3. For Item No. 34 of Schedule II, the following shall be substituted, namely:—

			Rs. A.
"34	SUGAR, excluding confectionery (*see* No. 124)—		
	(1) Sugar, crystallised or soft 23 Dutch Standard and above.	Cwt. . . .	6 0
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard.	Cwt. . . .	5 8
	(3) Sugar, below 8 Dutch Standard and sugar candy.	*Ad valorem* . .	25 per cent. *plus* one rupee and eight annas per cwt.
	(4) Molasses	*Ad valorem* . .	25 per cent."

4. In Item No. 40 of Schedule II, for the words "six pies" the words "three pies" shall be substituted.

5. After Item No. 43B of Schedule II, the following heading and item shall be inserted, namely:—

	"METALS.		
43 BB	SILVER BULLION and coin, not otherwise specified, and silver sheets and plates which have undergone no process of manufacture subsequent to rolling.	Ounce . . .	Four annas."

6. Item No. 45 of Schedule II shall be omitted.

7. In Item No. 4 of Schedule III, for the figures ".03" the words "Two annas and three pies" shall be substituted.

SCHEDULE II.
SCHEDULE III. } *Spent.*

ACT No. XVI OF 1930.[1]

[*2nd April, 1930.*]

An Act to amend the Transfer of Property (Amendment) Supplementary Act, 1929, for a certain purpose.

WHEREAS it is expedient to amend the Transfer of Property (Amendment) Supplementary Act, 1929, for the purpose hereinafter appearing; XXI of 1929.
It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Transfer of Property (Amendment) Supplementary Act, 1930.

Insertion of new section 7A in Act XXI of 1929. **2.** After section 7 of the Transfer of Property (Amendment) Supplementary Act, 1929, the following section shall be inserted, namely:— XXI of 1929.

[*Supra*, p. 108.]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 91.

ACT No. XVII OF 1930.[1]

[*4th April, 1930.*]

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, VIII of 1894. 1894, in order to protect the cotton textile industry in British India in respect of the manufacture of cotton piece-goods, and in order to continue for a further period the protection already given to that industry against competition in cotton yarn produced under industrial conditions which enable such yarn to be produced at a cost below that at which it can be produced in British India; It is hereby enacted as follows:—

1. This Act may be called the Cotton Textile Industry (Protection) Act, 1930. Short title.

2. (*1*) After Item No. 156 of the Second Schedule to the Indian VIII of 1894. Tariff Act, 1894, the following heading and Item shall be inserted, namely:— Amendment of the Second Schedule, Act VIII of 1894.

"YARNS AND TEXTILE FABRICS.

156A	COTTON PIECE-GOODS (other than fents of not more than nine yards in length)—			
	(*a*) plain grey, that is, not bleached or dyed in the piece, if imported in pieces which either are without woven headings or contain any length of more than nine yards which is not divided by transverse woven headings—			
	(i) of British manufacture.	*Ad valorem*	. .	15 per cent. or 3½ annas per pound, whichever is higher.
	(ii) not of British manufacture.	*Ad valorem*	. .	20 per cent. or 3½ annas per pound, whichever is higher.
	(*b*) others—			
	(i) of British manufacture.	*Ad valorem*	. .	15 per cent.
	(ii) not of British manufacture.	*Ad valorem*	. .	20 per cent."

(*2*) The amendment made by sub-section (*1*) shall have effect only up to the 31st day of March, 1933.

(*3*) The words "or 3½ annas per pound, whichever is higher" appearing in the fourth column of Item No. 156A of the said Second Schedule, as inserted by sub-section (*1*), shall not have effect until such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 86.
The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, pt. II, p. 903.

Amendment of the Second Schedule, Act VIII of 1894.

3. (*1*) In Item No. 44 of the Second Schedule to the Indian Tariff Act, 1894, after the figure and words " 5 per cent." the figure and words " or 1½ annas per pound, whichever is higher " shall be added. VIII of 1894.

(*2*) The amendment made by this section shall have effect only up to the 31st day of March, 1933.

ACT No. XVIII OF 1930.[1]

[*4th April, 1930.*]

An Act to provide for the imposition and collection of an excise duty on silver.

WHEREAS it is expedient to impose an excise duty on silver and to provide for the collection thereof; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Silver (Excise Duty) Act, 1930.

(*2*) It extends to the whole of British India.

Definition.

2. In this Act " silver works " means any place where silver is extracted from ore.

Imposition and collection of an excise duty on silver.

3. (*1*) There shall be collected at every silver works on all silver produced in such works, which is issued out of the premises of such works on and after the 17th day of March, 1930, a duty at the rate of [six annas][2] on each ounce.

(*2*) If any duty payable under sub-section (*1*) is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of the duty unpaid which such authority may in its discretion think it reasonable to require.

(*3*) Any arrear of duty, or any sum recoverable in lieu thereof under sub-section (*2*), shall be recoverable as an arrear of income-tax in any manner prescribed in section 46 of the Indian Income-tax Act, 1922. XI of 1922.

Issue of silver from silver works.

4. (*1*) No person shall issue any silver out of the premises of any silver works except in accordance with the provisions of rules made under section 6 regulating such issue, or, until such rules are made, in accordance with the general or special orders of the Local Government.

(*2*) Whoever contravenes any such rule or order shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the duty on any silver issued in contravention of such rule or order, whichever is greater.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 95.

The Act has been extended under s. 10 (*1*) of the Burma Laws Act, 1898, to the Federated Shan States, *see* Burma Gazette, 1930, Pt. I, p. 292; *see* also *ibid*, p. 804.

[2] These words were substituted for the words " four annas " by s. 10 of the Indian Finance Act, 1931.

Application of the provisions of Act VIII of 1878 to the excise duty on silver.

5. The Governor General in Council may, by notification in the Gazette of India, declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on silver imposed by section 3.

VIII of 1878.

Power to make rules.

6. (*1*) The Governor General in Council may, by notification in the Gazette of India, make rules—

(*a*) imposing on owners of silver works the duty of furnishing returns and keeping records and books, prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified, and all such other conditions thereof as may be necessary;

(*b*) providing for the regulation of the issue of silver out of the premises of silver works;

(*c*) providing for the assessment of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable, and for the recovery of arrears;

(*d*) providing for the inspection of silver works; and

(*e*) generally, for carrying into effect the provisions of this Act.

(*2*) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees:

Provided that the breach of any rule made under clause (*b*) of sub-section (*1*) shall be punishable with the penalty prescribed in sub-section (*2*) of section 4.

ACT No. XIX OF 1930.[1]

[*4th April, 1930.*]

An Act further to amend the Indian Companies Act, 1913, for certain purposes.

VII of 1913.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Companies (Amendment) Act, 1930.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 63; for Report of Select Committee, *see ibid*, p. 89.

[2] This Act came into force on the 1st April, 1932, *see* Gazette of India, 1932, Pt. I, p. 299.

Amendment of section 144, Act VII of 1913.

2. In section 144 of the Indian Companies Act, 1913,— VIII of 1913.

(*a*) in sub-section (*1*),—

(*i*) for the words "Local Government" the words "Governor General in Council" shall be substituted; and

(*ii*) for the proviso the following proviso shall be substituted, namely:—

"Provided that a firm [whereof all the partners practising in India][1] hold such certificates may be appointed by its firm-name to be auditor of a company, and may act in its firm-name"; and

(*b*) for sub-section (*2*) the following sub-sections shall be substituted, namely:—

"(*2*) The Governor General in Council may, by notification in the Gazette of India and after previous publication, make rules providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation:

Provided that nothing contained in such rules shall preclude any person from being granted a certificate merely by reason that he does not practise as a public accountant.

(*2A*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the maintenance of a Register of Accountants entitled to apply for such certificates;

(*b*) prescribe the qualifications for enrolment on the Register and the fees therefor;

(*c*) provide for the examination of candidates for enrolment, and prescribe the fees to be paid by examinees;

(*d*) prescribe the circumstances in which the name of any person may be removed from or restored to the Register;

(*e*) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise him on all matters of administration relating to accountancy, and to assist him in maintaining the standards of qualification and conduct of persons enrolled on the Register; and

(*f*) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the Governor General in Council may select, to advise him and the Indian Accountancy Board on any matter that may be referred to them.

[1] These words were substituted for the words "whereof the partners all" by s. 2 of the Indian Companies (Supplementary Amendment) Act, 1932 (I of 1932).

(*2B*) The holder of a certificate granted under this section shall be entitled to be appointed and act as an auditor of companies throughout British India."

Certificates granted before the commencement of this Act.

3. (*1*) All certificates granted by Local Governments before the commencement of this Act entitling the holders, and all declarations made before the commencement of this Act by the Governor General in Council entitling the members of any specified institution or association, to be appointed and to act as auditors of companies throughout British India shall be deemed to be cancelled on the expiry of one year from the commencement of this Act:

Provided that the Governor General in Council may direct that any such certificate or declaration shall remain in force for a further period not exceeding one year:

Provided further that any person who—

(*a*) was entitled immediately before the commencement of this Act by reason of any such certificate or declaration to be appointed and to act as an auditor of companies throughout British India, and

(*b*) has at any time, after he became so entitled and before the commencement of this Act, resided in India,

shall, if he possesses such qualifications as to good character and on payment of such fee as may be prescribed under clause (*b*) of sub-section (*2A*) of section 144 of the Indian Companies Act, 1913, be entitled to be enrolled on the Register of Accountants referred to in that sub-section.

VII of 1913.

(*2*) Persons holding restricted certificates granted by Local Governments before the commencement of this Act entitling them to act as auditors within a province may continue so to act, on such conditions as may be prescribed by the Governor General in Council in rules made by notification in the Gazette of India and after previous publication.

ACT No. XX OF 1930.[1]

[*4th April, 1930.*]

An Act to amend the Destructive Insects and Pests Act, 1914, for a certain purpose.

WHEREAS it is expedient to amend the Destructive Insects and Pests Act, 1914, for the purpose hereinafter appearing; It is hereby enacted as follows:—

II of 1914.

Short title.

1. This Act may be called the Destructive Insects and Pests (Amendment) Act, 1930.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 92.

Amendment of section 2, Act II of 1914.

2. In clause (*b*) of section 2 of the Destructive Insects and Pests Act, 1914, for the words " or land ", the words " land or air " shall be substituted. II of 1914.

ACT No. XXI OF 1930.[1]

[*4th April, 1930.*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act, 1930.

(*2*) It shall come into force on the 1st day of April, 1930.

Amendment of section 2, Act XI of 1922.

2. In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), XI of 1922.

(*a*) after clause (*6*) the following clause shall be inserted, namely:—

" (*6A*) ' firm ', ' partner ' and ' partnership ' have the same meanings respectively as in the Indian Contract Act, 1872[2] "; and IX of 1872.

(*b*) for clause (*14*) the following shall be substituted, namely:—

" (*14*) ' registered firm ' means a firm registered under the provisions of section 26A;"

Amendment of section 23, Act XI of 1922.

3. In sub-section (*4*) of section 23 of the said Act,—

(*a*) after the word " judgment " the words " and, in the case of a registered firm, may cancel its registration " shall be added; and

(*b*) the following proviso shall be added, namely:—

" Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration ".

Insertion of new section 23A in Act XI of 1922.

4. After section 23 of the said Act the following section shall be inserted, namely:—

Power to assess individual

23A. (*1*) Where the Income-tax Officer is satisfied that any firm or other association of individuals carrying on any business,

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 246; for Reports of Select Committees, *see ibid*, 1929, Pt. V, p. 21 and *ibid*, 1930, Pt. V, p. 21.

[2] *See* now the Indian Partnership Act, 1932 (9 of 1932), s. 4, *infra*.

other than a Hindu undivided family or a company, is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to tax of any member thereof, he may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the firm or association shall not be determined, and thereupon the share of each member in the profits and gains of the firm or association shall be included in his total income for the purpose of his assessment thereon. members of certain firms, associations and companies.

Explanation.—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(*2*) Where the Income-tax Officer is satisfied that a company is under the control of not more than five of its members and that its profits and gains are allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being distributed to the members, or that a reasonable part of its profits and gains, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of tax upon any of the members in respect of their shares in the profits and gains so accumulated or not distributed, the Income-tax Officer may, with the previous approval of the Assistant Commissioner, pass an order that the sum payable as income-tax by the company shall not be determined, and thereupon the proportionate share of each member in the profits and gains of the company, whether such profits and gains have been distributed to the members or not, shall be included in the total income of such member for the purpose of his assessment thereon:

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

Explanation.—For the purpose of this sub-section,—

(*a*) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this

sub-section apply or of two or more companies none of which is a company to which those provisions apply;

(*b*) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are in fact freely transferable by the holders to other members of the public;

(*c*) unless the contrary is proved, a company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or of relatives or nominees of those persons;

(*d*) " nominee " means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person.

(*3*) The Assistant Commissioner shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section until he has given the firm, association or company concerned an opportunity of being heard.

(*4*) (*i*) Where any member of a firm or association of individuals makes default in the payment of tax on his share of profits and gains which has been included in his total income under the provisions of sub-section (*1*), such tax may be recovered from the firm or association, as the case may be.

(*ii*) Where the proportionate share of any member of a company in the undistributed profits and gains of the company has been included in his total income under the provisions of sub-section (*2*), the tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(*iii*) Where tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall

be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

(*5*) Where tax has been paid in respect of any undistributed profits and gains of a company under this section, and such profits and gains are subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total income of that year."

Insertion of new section 26A in Act XI of 1922.

5. After section 26 of the said Act the following section shall be inserted, namely:—

Procedure in registration of firms.

"26A. (*1*) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

(*2*) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner as may be prescribed; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed."

Amendment of section 28, Act XI of 1922.

6. For section 28 of the said Act the following section shall be substituted, namely:—

Penalty for concealment of income or improper distribution of profits.

"28. (*1*) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of the income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income.

(*2*) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distri-

bution, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(*3*) No order shall be made under sub-section (*1*) or sub-section (*2*), unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard.

(*4*) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(*5*) An Assistant Commissioner or a Commissioner, who has made an order under sub-section (*1*) or sub-section (*2*), shall forthwith send a copy of the same to the Income-tax Officer."

Insertion of new section 33A in Act XI of 1922.

7. After section 33 of the said Act the following section shall be inserted, namely:—

Reference to Board of Referees.

"33A. (*1*) Any person aggrieved by an order of an Income-tax Officer under sub-section (*1*) or sub-section (*2*) of section 23A may, within thirty days of the date on which he was served with notice of such order, lodge an appeal in the office of the Commissioner.

(*2*) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(*3*) The Commissioner shall refer such appeal, with a statement of his own opinion thereon, to a Board of Referees for decision; and the Board of Referees shall decide the appeal after hearing the appellant and any person deputed by the Commissioner:

Provided that, before making a reference to a Board of Referees, the Commissioner may, and at the request of the appellant shall, in exercise of his powers of revision under section 33, decide the matters in dispute, and thereupon the assessee may withdraw his appeal or proceed with it.

(*4*) The decision of the Board of Referees shall be forwarded to the Commissioner who shall transmit it to the Income-tax Officer who passed the original order, and shall also send

copies to each Income-tax Officer who has made any assessment consequent upon such order; and where a decision reverses or modifies the order of the Income-tax Officer, fresh assessments shall be made in accordance therewith, or such consequential adjustments as may be required shall be made in any assessment already made.

(*5*) The decision of a Board of Referees shall not be subject to appeal to any Income-tax authority, and shall not be revised by the Commissioner in exercise of his powers under section 33.

(*6*) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having business experience, and one shall be a judicial officer not inferior in rank to a Subordinate Judge or a Judge of a Small Cause Court who has held judicial office for a period of not less than ten years.

(*7*) Subject to the provisions of sub-section (*6*), the Central Board of Revenue may make rules regulating the formation, composition and procedure of Boards of Referees."

8. In section 45 of the said Act,— Amendment of section 45, Act XI of 1922.

(*a*) after the words " notice of demand " the words and figures " under sub-section (*4*) of section 23A or " shall be inserted; and

(*b*) after the word and figures " section 30 " the words and figures " or under section 33A " shall be inserted.

9. In section 52 of the said Act, after the word and figures " section 22 " the words and figures " or sub-section (*2*) of section 26A " shall be inserted, and after the word and figures " section 32 " the words and figures " or sub-section (*2*) of section 33A " shall be inserted. Amendment of section 52, Act XI of 1922.

10. In sub-section (*2*) of section 54 of the said Act, after the first proviso the following proviso shall be inserted, namely:— Amendment of section 54, Act XI of 1922.

" Provided, further, that nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 26A, or to the giving of evidence by a public servant in respect thereof."

11. In sub-section (*2*) of section 66 of the said Act,— Amendment of section 66, Act XI of 1922.

(*a*) after the word and figures " section 32 ", the words and figures " or of a decision by a Board of Referees under section 33A " shall be inserted; and

(*b*) after the word " order ", in the second and third places where it occurs, the words " or decision " shall be inserted.

ACT No. XXII OF 1930.[1]

[*4th April, 1930.*]

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title.

1. This Act may be called the Indian Income-tax (Second Amendment) Act, 1930.

Amendment of section 14, Act XI of 1922.

2. In sub-section (*2*) of section 14 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), XI of 1922.

(*a*) in clause (*b*), after the word "assessment" the word "or" shall be added; and

(*b*) the following clause shall be added, namely:—

"(*c*) any sum which he receives as his share of the profits or gains of an association of individuals other than a Hindu undivided family, company or firm, where such profits or gains have been assessed to income-tax."

Amendment of section 25A, Act XI of 1922.

3. In section 25A of the said Act,—

(*a*) in sub-section (*1*),—

(*i*) after the word "hitherto" the words "assessed as" shall be inserted, and

(*ii*) the words "before the end of the previous year" shall be omitted; and

(*b*) the following sub-section shall be added, namely:—

"(*3*) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family."

Amendment of section 30, Act XI of 1922.

4. In section 30 of the said Act, after the word and figures "section 25", the words, figures and letter "or section 25A" shall be inserted.

Amendment of section 31, Act XI of 1922.

5. In sub-section (*3*) of section 31 of the said Act,—

(*a*) after the words "thereupon proceed to make such fresh assessment," the following shall be inserted, namely:—

"or, in the case of an order refusing to make a fresh assessment under section 27,

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 149; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 51.

(*c*) confirm such order, or cancel it and direct the Income-tax Officer to make a fresh assessment,"; and

(*b*) clause (*c*) shall be re-lettered as clause (*d*).

Amendment of section 37, Act XI of 1922.

6. In section 37 of the said Act, after the figures " 228 " the words and figures " and for the purposes of section 196 " shall be inserted.

Amendment of section 48, Act XI of 1922.

7. In sub-sections (*1*), (*2*) and (*3*) of section 48 of the said Act, after the words " Income-tax Officer " the words " or other authority appointed by the Governor General in Council in this behalf " shall be inserted.

Amendment of section 50, Act XI of 1922.

8. In section 50 of the said Act,—

(*a*) after the word " recovered " the words " or before the last day of the financial year commencing after the expiry of the previous year, as defined in clause (*11*) of section 2, in which the income arose on which the tax was recovered, whichever period may expire later " shall be added; and

(*b*) the following proviso shall be added, namely:—

" Provided that a claim to refund under section 49 may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period."

Amendment of section 54, Act XI of 1922.

9. In clause (*a*) of the first proviso to sub-section (*2*) of section 54 of the said Act, the words and figures " section 193 of " shall be omitted.

Amendment of section 60, Act XI of 1922.

10. Section 60 of the said Act shall be numbered as sub-section (*1*) of section 60, and the following sub-section shall be added, namely:—

" (*2*) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the Governor General in Council may grant such relief as he may think fit."

Amendment of section 66, Act XI of 1922.

11. In sub-section (*2*) of section 66 of the said Act,—

(*a*) for the words " within one month of the passing of an order under section 31 or section 32 " the words " within sixty days of the date on which he is served with notice of an order under section 31 or section 32 " shall be substituted;

(*b*) for the words " one month " in the second place where they occur, the words " sixty days " shall be substituted.

Insertion of new section 67A in Act XI of 1922.

12. After section 67 of the said Act the following section shall be inserted, namely:—

Computation of periods of limitation.

" 67A. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded."

ACT No. XXIII OF 1930.[1]

[*4th April, 1930.*]

An Act further to amend the Indian Income-tax Act, 1922, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:— XI of 1922.

Short title.

1. This Act may be called the Indian Income-tax (Third Amendment) Act, 1930.

Amendment of section 10, Act XI of 1922.

2. In sub-section (*2*) of section 10 of the Indian Income-tax Act, 1922, after clause (*viii*), the following clause shall be inserted, namely:— XI of 1922.

" (*viiia*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission:

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(*a*) the pay of the employee and the conditions of his service;

(*b*) the profits of the business for the year in question; and

(*c*) the general practice in similar businesses; "

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 69.

ACT No. XXIV OF 1930.[1]

[*25th July, 1930.*]

An Act to provide for the creation of a fund for the improvement and development of the cultivation, manufacture and marketing of Indian lac.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the cultivation, manufacture and marketing of Indian lac; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Lac Cess Act, 1930.

(*2*) It extends to the whole of British India, except Aden.

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act—

(*a*) "Collector" means a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878; VIII of 1878.

(*b*) "Committee" means the Indian Lac Cess Committee constituted under section 4;

(*c*) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

(*d*) "lac cess" means the customs duty imposed by section 3.

Imposition of lac cess.

3. There shall be levied and collected on all lac and refuse lac produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden a cess at the rate of four annas per maund in the case of lac, and two annas per maund in the case of refuse lac, or at such lower rate as the Governor General in Council may, on the recommendation of the Committee, by notification in the Gazette of India, prescribe.

Constitution of the Indian Lac Cess Committee.

4. (*1*) The Governor General in Council shall constitute a Committee consisting of the following members to receive and expend the proceeds of the cess:—

(*i*) the Vice-Chairman of the Imperial Council of Agricultural Research, *ex-officio;*

(*ii*) the Inspector General of Forests, *ex-officio;*

(*iii*) the Forest Entomologist, Dehra Dun, *ex-officio;*

(*iv*) the Imperial Entomologist, *ex-officio;*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 62; for Report of Select Committee, *see ibid.* p. 99.

[2] This Act came into force on the 1st August, 1931, *see* Gazette of India, 1931, Pt. I, p. 633.

(*v*) the Conservator of Forests, Bihar and Orissa, *ex-officio;*

(*vi*) the Director of Agriculture, Bihar and Orissa, *ex-officio;*

(*vii*) the Director of the Lac Research Institute, Nankum, *ex-officio;*

(*viii*) three persons representing the shellac manufacturing industry, one to be nominated by the Bengal Chamber of Commerce, one by the Calcutta Shellac Brokers' Association, and one by the Shellac Traders' Association, Mirzapur;

(*ix*) one representative of the shellac export trade nominated by the Bengal Chamber of Commerce;

(*x*) one representative of the brokers of lac and shellac in Calcutta nominated by the Calcutta Shellac Brokers' Association;

(*xi*) five persons representing the lac cultivators' interests in Bengal, Bihar and Orissa, the United Provinces, the Central Provinces and Assam, one to be nominated by each of the Local Governments of those provinces:

Provided that, if, within the period prescribed in this behalf, or, in the case of first nominations under this Act, within a reasonable time, any authority or body fails to make any nomination which it is entitled to make under this section, the Governor General in Council may himself nominate a member to fill the vacancy.

(*2*) The Vice-Chairman of the Imperial Council of Agricultural Research shall be *ex-officio* President of the Committee.

(*3*) The Secretary of the Committee shall be a person not being a member of the Committee, appointed by the Governor General in Council.

(*4*) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the Governor General in Council may, on the recommendation of the authority or body which would have been entitled to make the nomination if it had been a first nomination under sub-section (*1*), or where such recommendation is not made within the prescribed period, then on his own initiative, nominate a person to fill the vacancy.

(*5*) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Incorporation of the Committee.

5. The Committee so constituted shall be a body corporate by the name of the Indian Lac Cess Committee, having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Application of the lac cess.

6. (*1*) At the close of each month or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Committee.

(*2*) The said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, subject to the control of the Governor General in Council, decide to undertake for the improvement and development of methods of cultivation, manufacture and marketing of Indian lac.

Dissolution of the Committee.

7. The Governor General in Council may by notification in the Gazette of India declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed.

Power of Governor General in Council to make rules.

8. (*1*) The Governor General in Council may, after consulting the Committee and after previous publication, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the time within which nominations shall be made under section 4;

(*b*) prescribe the term of office of the members of the Committee;

(*c*) prescribe the circumstances in which and the authority by which any member may be removed;

(*d*) provide for the holding of a minimum number of meetings of the Committee during any year;

(*e*) provide for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Governor General in Council;

(*f*) define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee to enter into contracts which shall be binding on the Committee and the manner in which such contracts shall be executed;

(*g*) regulate the travelling allowances of members of the Committee and their remuneration, if any;

(*h*) define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee in respect of the appointment, promotion and dismissal of officers and servants of the Committee and in respect of the creation and abolition of appointments of such officers or servants;

(*i*) regulate the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;

(*j*) regulate the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;

(*k*) provide for the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee;

(*l*) regulate the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

(*m*) define the powers of the Committee, the Standing Executive Sub-Committee (if any), the President of the Committee, the Director of the Lac Research Institute and the Secretary to the Committee, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure;

(*n*) regulate the maintenance of accounts of the receipts and expenditure of the Committee and provide for the audit and publication of such accounts;

(*o*) prescribe the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or disposal of the funds of the Committee shall be signed;

(*p*) determine the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested;

(*q*) prescribe the preparation of a statement showing the sums allotted to the provincial Departments of Forests or of Agriculture or to institutions or authorities not under the

direct control of the Committee for expenditure on schemes relating to the cultivation, manufacture or marketing of lac, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year; and

(*r*) regulate the assessment, levy and payment of the lac cess.

Power of the Committee to make rules.

9. The Committee may, with the previous sanction of the Governor General in Council, make rules consistent with this Act and with the rules made under section 8 to provide for all or any of the following matters, namely:—

(*a*) the appointment of a Standing Executive Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee;

(*b*) the method of appointment, removal and replacement and the term of office of members of the Standing Executive Sub-Committee and the filling of vacancies therein;

(*c*) the appointment of the dates, times and places for meetings of the Committee and the Standing Executive Sub-Committee, and the regulation of the procedure to be observed at such meetings;

(*d*) the determination of the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case;

(*e*) the determination of the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability;

(*f*) the contribution to be paid from the funds of the Committee to the provident fund;

(*g*) generally, all matters incidental to the provident fund and the investment thereof;

(*h*) the defining of the powers and duties of the Secretary of the Committee.

Publication of rules.

10. All rules made under section 8 or section 9 shall be published in the Gazette of India.

XIV of 1921.

Repeal.

11. The Indian Lac Cess Act, 1921, is hereby repealed.

XXI of 1860.

Dissolution of the Indian Lac Association for Research.

12. Notwithstanding anything contained in the Societies Registration Act, 1860, the Indian Lac Association for Research is hereby dissolved, and all monies and properties vested in it are hereby transferred to the Committee, subject to the payment of any outstanding claims incurred by the said Association under the Indian Lac Cess Act, 1921.

XIV of 1921.

ACT No. XXV OF 1930.[1]

[*25th July, 1930.*]

An Act further to amend the Negotiable Instruments Act, 1881, for a certain purpose.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, for the purpose hereinafter appearing; It is hereby enacted as follows:— XXVI of 1881.

Short title.

1. This Act may be called the Negotiable Instruments (Amendment) Act, 1930.

Insertion of new section 85A in Act XXVI of 1881.

2. After section 85 of the Negotiable Instruments Act, 1881, the following section shall be inserted, namely:— XXVI of 1881.

Drafts drawn by one branch of a bank on another payable to order.

"85A. Where any draft, that is, an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be endorsed by or on behalf of the payee, the bank is discharged by payment in due course."

ACT No. XXVI OF 1930.[2]

[*25th July, 1930.*]

An Act to amend the Indian Forest Act, 1927, for a certain purpose.

WHEREAS it is expedient to amend the Indian Forest Act, 1927, for the purpose hereinafter appearing; It is hereby enacted as follows:— XVI of 1927.

Short title.

1. This Act may be called the Indian Forest (Amendment) Act, 1930.

Amendment of section 2, Act XVI of 1927.

2. In sub-clause (*a*) of clause (*4*) of section 2 of the Indian Forest Act, 1927, after the word "seeds" the word ", kuth" shall be inserted. XVI of 1927.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 189; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 109.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 103.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

ACT No. XXVII OF 1930.[1]

[*25th July, 1930.*]

An Act further to amend the Indian Telegraph Act, 1885, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Telegraph Act, XIII of 1885. 1885, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Telegraph (Amendment) Act, 1930. Short title.

2. In clause (*a*) of the second proviso to sub-section (*1*) of section 4 of the Indian Telegraph Act, 1885, after the word "waters" the words "and on aircraft within or above British India, or Indian territorial waters," shall be inserted. Amendment of section 4, Act XIII of 1885.

ACT No. XXIX OF 1930.[2]

[*25th July, 1930.*]

An Act further to amend the Benares Hindu University Act, 1915, for certain purposes.

WHEREAS it is expedient further to amend the Benares Hindu XVI of 1915. University Act, 1915, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Benares Hindu University (Amendment) Act, 1930. Short title.

XVI of 1915 **2.** In section 7 of the Benares Hindu University Act, 1915 (hereinafter referred to as the said Act),— Amendment of section 7, Act XVI of 1915.

(*a*) for the words "the Pro-Chancellor" the words "the Pro-Chancellors, of whom there shall be two" shall be substituted; and

(*b*) after item VIII the following item shall be inserted, namely:—

"VIIIA.—The Standing Finance Committee,".

3. In sub-section (*1*) of section 12 of the said Act, for the word "seventeen" the word "twenty" shall be substituted. Amendment of section 12, Act XVI of 1915.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 104.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 105.

Insertion of new section 16A in Act XVI of 1915.

4. After section 16 of the said Act, the following section shall be inserted, namely:—

Pension or Provident Fund.

"16A. The University shall constitute for the benefit of its officers, teachers and other servants such pension or provident fund as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes."

Amendment of section 17, Act XVI of 1915.

5. In section 17 of the said Act,—

(*a*) in sub-section (*1*)—

(*i*) in clause (*a*), after the word "Syndicate" the words "the Standing Finance Committee" shall be inserted;

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

"(*cc*) the constitution of a pension or provident fund for the benefit of the officers, teachers and other servants of the University;"; and

(*iii*) in clause (*d*), after the word "instruction" the words "and examination" shall be inserted; and

(*b*) in the proviso to sub-section (*5*), after the words "first Statutes," the following shall be inserted, namely:—

"and no Statute containing, repealing or amending any provision which relates to the constitution, powers or duties of the Standing Finance Committee,".

ACT No. XXX OF 1930.[1]

[*25th July, 1930.*]

An Act to remove doubt as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning.

WHEREAS it is expedient to remove doubt, and to provide an uniform rule, as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Hindu Gains of Learning Act, 1930.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 228, for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 93.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

(*2*) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) " acquirer " means a member of a Hindu undivided family, who acquires gains of learning;

(*b*) " gains of learning " means all acquisitions of property made substantially by means of learning, whether such acquisitions be made before or after the commencement of this Act and whether such acquisitions be the ordinary or the extraordinary result of such learning; and

(*c*) " learning " means education, whether elementary, technical, scientific, special or general, and training of every kind which is usually intended to enable a person to pursue any trade, industry, profession or avocation in life.

3. Notwithstanding any custom, rule or interpretation of the Hindu Law, no gains of learning shall be held not to be the exclusive and separate property of the acquirer merely by reason of— Gains of learning not to be held not to be separate property of acquirer merely for certain reasons.

(*a*) his learning having been, in whole or in part, imparted to him by any member, living or deceased, of his family, or with the aid of the joint funds of his family, or with the aid of the funds of any member thereof, or

(*b*) himself or his family having, while he was acquiring his learning, been maintained or supported, wholly or in part, by the joint funds of his family, or by the funds of any member thereof.

4. This Act shall not be deemed in any way to affect— Savings.

(*a*) the terms or incidents of any transfer of property made or effected before the commencement of this Act,

(*b*) the validity, invalidity, effect or consequences of anything already suffered or done before the commencement of this Act,

(*c*) any right or liability created under a partition, or an agreement for a partition, of joint family property made before the commencement of this Act, or

(*d*) any remedy or proceeding in respect of such right or liability; or to render invalid or in any way affect anything done before the commencement of this Act in any proceeding pending in a Court at such commencement; and any such remedy and any such proceeding as is herein referred to may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

ACT No. XXXII OF 1930.[1]

[*25th July, 1930.*]

An Act to give retrospective effect to the Mussalman Wakf Validating Act, 1913.

WHEREAS the Mussalman Wakf Validating Act, 1913, does not apply to wakfs created before its enactment; VI of 1913.

AND WHEREAS it is expedient to validate such wakfs without infringing any rights contrary thereto which may have already accrued or been acquired;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mussalman Wakf Validating Act, 1930.

Act VI of 1913 to apply retrospectively.

2. The Mussalman Wakf Validating Act, 1913, shall be deemed to apply to wakfs created before its commencement: VI of 1913.

Provided that nothing herein contained shall be deemed in any way to affect any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act.

ACT No. II OF 1931.[2]

[*28th February, 1931.*]

An Act to provide for the modification of certain import duties relating to the fostering and development of the steel industry in British India.

WHEREAS it is expedient to remove the existing inequality of tariff treatment as between manufacturers in British India and manufacturers abroad of certain articles made of iron or steel;

AND WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, further to provide for the fostering and development of the steel industry by increasing the import duty leviable on certain railway materials made of iron or steel;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Steel Industry (Protection) Act, 1931.

Amendment of Second Schedule to Act VIII of 1894.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. VIII of 1894.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 240; for Report of Select Committee, *see ibid*, 1930, Pt. V, p. 107.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1931, Pt. II, p. 903.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 57; for Report of Select Committee, *see ibid*, p. 72.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1932, Pt. II, p. 322.

THE SCHEDULE.

(*See section 2.*)

Amendments to the Second Schedule to the Indian Tariff Act, 1894.

1. In Item No. 61,—

(*a*) in the third sub-item, the word " rivets " shall be omitted; and

(*b*) in the fifth sub-item, the brackets, words and figures " (*see* Nos. 63 and 150) " and the words " and fastenings therefor other than tie-bars " shall be omitted.

2. In Item No. 63, the words " fish bolts and nuts," and the words " switches, crossings and the like materials made of alloy steel " shall be omitted.

3. For Item No. 145, the following items shall be substituted, namely:—

" 145	IRON OR STEEL BOLTS AND NUTS, including hook-bolts and nuts for roofing and fish bolts and nuts.	Rs. 2-4-0 per cwt.
145A	IRON OR STEEL RIVETS	Rs. 2 per cwt."

4. In Item No. 150,—

(*a*) in sub-item B, for the words " Switches and crossings and the like materials not made of alloy steel, including switches and crossings and the like materials ", the words " Switches and crossings including stretcher bars and other component parts, and switches and crossings including stretcher bars and other component parts " shall be substituted;

(*b*) in sub-item C, the words " and keys and distance pieces and the like for use with such sleepers " shall be omitted;

(*c*) in sub-item D, after the word " Spikes " the words and brackets " (other than dogspikes) " shall be inserted; and

(*d*) the following sub-items shall be added, namely:—

" E.	Dogspikes	Rs. 2-4-0 per cwt.
F.	Gibs, cotters, keys, distance pieces and other fastenings for use with iron or steel sleepers.	Rs. 2 per cwt."

ACT No. III OF 1931.[1]

[*28th February, 1931.*]

An Act to provide for the fostering and development of the gold thread industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the gold thread industry by increasing, for a period of ten years, the import duty leviable on certain articles; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Gold Thread Industry (Protection) Act, 1931.

2. *Amendment of Item 43BBB of Schedule II, Act VIII of 1894.*—*Spent.*

Amendment of Item 131 of Schedule II, Act VIII of 1894.

3. In Item No. 131 of the said Schedule, the words "gold thread and wire" shall be omitted.

Insertion of new Item 132 in Schedule II, Act VIII of 1894.

4. (*1*) In Part VI of the said Schedule, the following Item shall be inserted, namely:—

"132	SILVER PLATE, and silver manufactures, all sorts not otherwise specified."	

(*2*) Sub-section (*1*) shall have effect on the expiration of the 31st day of March, 1931, and sub-section (*3*) of section 1 of the Indian Finance Act, 1930, in so far as it purports to revive Item No. 132 of the said Schedule as it stood before the commencement of that Act, shall have no effect inconsistent with sub-section (*1*). XV of 1930.

Insertion of new Item 154A in Schedule II, Act VIII of 1894.

5. (*1*) In Part VII of the said Schedule, after Item No. 154, the following heading and Item shall be inserted, namely:—

"METALS OTHER THAN IRON AND STEEL.

154A	SILVER THREAD AND WIRE (including so-called gold thread and wire mainly made of silver) and silver leaf; including also imitation gold and silver thread and wire, lametta and metallic spangles and articles of a like nature, of whatever metal made.	50 per cent. *ad valorem*."

(*2*) Sub-section (*1*) shall have effect up to the 31st day of March, 1941.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 56; for Report of Select Committee, *see ibid*, p. 71.

The Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1932, Pt. II, p. 322.

ACT No. IV OF 1931.[1]

[*3rd March, 1931.*]

An Act further to amend the Indian Income-tax Act, 1922, for a certain purpose.

XI of 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Income-tax (Amendment) Act, 1931.

XI of 1922.

Amendment of section 58C, Act XI of 1922.

2. In clause (*e*) of sub-section (*1*) of section 58C of the Indian Income-tax Act, 1922, after the word " trustees " the words " or in the Official Trustee " shall be inserted.

ACT No. V OF 1931.[2]

[*3rd March, 1931.*]

An Act further to amend the Indian Territorial Force Act, 1920, for a certain purpose.

XLVIII of 1920.

WHEREAS it is expedient further to amend the Indian Territorial Force Act, 1920, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Territorial Force (Amendment) Act, 1931.

XLVIII of 1920.

Amendment of section 13, Act XLVIII of 1920.

2. In clause (*d*) of sub-section (*2*) of section 13 of the Indian Territorial Force Act, 1920, for the words " the preliminary and periodical training to be undergone by " the words " preliminary and periodical military training, compulsory and voluntary, for " shall be substituted.

ACT No. VI OF 1931.[3]

[*3rd March, 1931.*]

An Act further to amend the Auxiliary Force Act, 1920, for a certain purpose.

XLIX of 1920.

WHEREAS it is expedient further to amend the Auxiliary Force Act, 1920, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Auxiliary Force (Amendment) Act, 1931.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 58.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 51.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 52.

Amendment of section 30, Act XLIX of 1920.

2. In clause (*f*) of sub-section (*2*) of section 30 of the Auxiliary Force Act, 1920, for the words " persons liable to perform military service under this Act " the words " enrolled persons " shall be substituted. XLIX of 1920.

ACT No. VII OF 1931.[1]

[*3rd March, 1931.*]

An Act further to amend the Cantonments Act, 1924, for certain purposes.

WHEREAS it is expedient further to amend the Cantonments Act, 1924, II of 1924. for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Cantonments (Amendment) Act, 1931.

Amendment of section 39, Act II of 1924.

2. To sub-section (*1*) of section 39 of the Cantonments Act, 1924 II of 1924. (hereinafter referred to as the said Act), the following proviso shall be added, namely:—

" Provided that, where the Board does not include any elected member, the quorum shall be four."

Amendment of section 52, Act II of 1924.

3. In sub-section (*1*) of section 52 of the said Act, the words " on a recommendation made to him in this behalf by the Officer Commanding the District or where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act, of his own motion " shall be omitted.

Amendment of section 75, Act II of 1924.

4. In section 75 of the said Act, after the word " application " the words " in writing " shall be inserted.

Amendment of section 77A, Act II of 1924.

5. In section 77A of the said Act,—

(*a*) the word and figures " section 75 " shall be omitted; and

(*b*) for the words " circumstances in which it is claimed " the following shall be substituted, namely:—

" fact that the building, land or tenement has become vacant and unproductive of rent ".

Amendment of section 99A, Act II of 1924.

6. In section 99A of the said Act, the words " belonging to the Secretary of State for India in Council " shall be omitted.

Amendment of section 236, Act II of 1924.

7. In sub-section (*2*) of section 236 of the said Act, after the word " sub-inspector " the words " or a sergeant " shall be inserted and after the words " Officer Commanding the Station " where they occur the second time, the words " with the concurrence of the District Magistrate " shall be added.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 50.

8. After section 286 of the said Act the following section shall be inserted, namely:— Insertion of new section 286A in Act II of 1924.

" 286A. The Cantonment Authority may empower any of its members or officers to exercise or perform in the absence of the Executive Officer from the Cantonment all or any of such powers or duties of an Executive Officer under this Act as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf." Power to delegate functions of Executive Officer.

ACT No. VIII OF 1931.[1]

[*3rd March, 1931.*]

An Act to give effect in British India to the Treaty for the Limitation and Reduction of Naval Armament.

WHEREAS it is expedient to give effect in British India to the Treaty for the Limitation and Reduction of Naval Armament signed at London on behalf of His Majesty on the twenty-second day of April, 1930; It is hereby enacted as follows:—

1. This Act may be called the Indian Naval Armament (Amendment) Act, 1931. Short title.

VII of 1923. **2.** In the preamble to the Indian Naval Armament Act, 1923 (hereinafter referred to as the said Act), after the figures " 1922 ", the following shall be inserted, namely:— Amendment of preamble, Act VII of 1923.

" and to the Treaty for the Limitation and Reduction of Naval Armament signed at London on behalf of His Majesty on the twenty-second day of April, 1930 ".

3. In clause (*c*) of section 2 of the said Act, after the figures " 1922 ", the following shall be inserted, namely:— Amendment of section 2, Act VII of 1923.

" and of the Treaty for the Limitation and Reduction of Naval Armament signed at London on behalf of His Majesty on the twenty-second day of April, 1930 ".

4. To the Schedule to the said Act the following shall be added, namely:— Amendment of Schedule, Act VII of 1923.

" ARTICLES OF TREATY FOR THE LIMITATION AND REDUCTION OF NAVAL ARMAMENT.

Article 3.

1. For the purposes of the Washington Treaty, the definition of an aircraft carrier given in Chapter II, Part 4 of the said Treaty is hereby replaced by the following definition:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 54.

The expression " aircraft carrier " includes any surface vessel of war, whatever its displacement, designed for the specific and exclusive purpose of carrying aircraft and so constructed that aircraft can be launched therefrom and landed thereon.

2. The fitting of a landing-on or flying-off platform or deck on a capital ship, cruiser or destroyer, provided such vessel was not designed or adapted exclusively as an aircraft carrier, shall not cause any vessel so fitted to be charged against or classified in the category of aircraft carriers.

Article 4.

* * * * * * *

2. As from the coming into force of the present Treaty in respect of all the High Contracting Parties, no aircraft carrier of 10,000 tons (10,160 metric tons) or less standard displacement, mounting a gun above 6·1 inch (155 mm.) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties.

Article 5.

An aircraft carrier must not be designed and constructed for carrying a more powerful armament than that authorised by Article IX or Article X of the Washington Treaty, or by Article 4 of the present Treaty, as the case may be.

Wherever in the said Articles IX and X the calibre of 6 inches (152 mm.) is mentioned, the calibre of 6·1 inches (155 mm.) is substituted therefor.

Article 6.

1. The rules for determining standard displacement prescribed in Chapter II, Part 4 of the Washington Treaty shall apply to all surface vessels of war of each of the High Contracting Parties.

2. The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure) fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores, and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

3. Each naval combatant vessel shall be rated at its displacement tonnage when in the standard condition. The word " ton ", except in the expression " metric tons ", shall be understood to be the ton of 2,240 pounds (1,016 kilos.).

Article 7.

1. No submarine the standard displacement of which exceeds 2,000 tons (2,032 metric tons) or with a gun above 5·1 inch (130 mm.) calibre

shall be acquired by or constructed by or for any of the High Contracting Parties.

2. Each of the High Contracting Parties may, however, retain, build or acquire a maximum number of three submarines of a standard displacement not exceeding 2,800 tons (2,845 metric tons); these submarines may carry guns not above 6·1 inch (155 mm.) calibre. Within this number, France may retain one unit, already launched, of 2,880 tons (2,926 metric tons), with guns the calibre of which is 8 inches (203 mm.).

* * * * * * * *

4. As from the coming into force of the present Treaty in respect of all the High Contracting Parties, no submarine the standard displacement of which exceeds 2,000 tons (2,032 metric tons) or with a gun above 5·1 inch (130 mm.) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties, except as provided in paragraph 2 of this Article."

ACT No. IX OF 1931.[1]

[*17th March, 1931.*]

An Act further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:— XXI of 1923.

1. This Act may be called the Indian Merchant Shipping (Amendment) Act, 1931. Short title.

2. After clause (*a*) of sub-section (*2*) of section 5 of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act), the following clause shall be inserted, namely:— XXI of 1923. Amendment of section 5, Act XXI of 1923.

"(*aa*) The provisions relating to the employment of young persons shall apply to ships registered in British India and to foreign ships in the manner prescribed in the said provisions."

3. In sub-section (*1*) of section 23 of the said Act,— Amendment of section 23, Act XXI of 1923.

(*a*) the words "Subject to the provisions of the Apprentices Act, 1850," shall be omitted;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 4; for Report of Select Committee, *see ibid*, p. 67.

(*b*) after the word "boy" the words "not under fourteen years of age" shall be inserted; and

(*c*) for the words "said Act shall, save as hereinafter provided in this section" the words "Apprentices Act, 1850, shall, subject to the provisions of this Act" shall be substituted.

Insertion of new sections 37A, 37B, 37C, 37D, 37E, 37F, 37G, 37H, 37I and 37J in Act XXI of 1923.

4. After section 37 of the said Act, the following heading and sections shall be inserted, namely:—

"*Employment of Young Persons.*

Definitions of "coasting-ship", "young lascar" and "young person".

37A. For the purposes of the following provisions—

(*i*) "coasting-ship" means a ship exclusively employed in trading between any ports or places on the continent of India, or between Aden and Perim, or between ports or places on the continent of India and ports or places in the island of Ceylon;

(*ii*) "young lascar" means a lascar or other native seaman under eighteen years of age; and

(*iii*) "young person" means a person under eighteen years of age, and includes a young lascar.

Employment of children.

37B. No young person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship registered in British India and no young lascar under fourteen years of age shall be engaged or carried to sea to work in any capacity in any foreign ship, except—

(*a*) in a school-ship, or training-ship, in accordance with the prescribed conditions; or

(*b*) in a ship in which all persons employed are members of one family; or

(*c*) in a home-trade ship of a burden not exceeding three hundred tons; or

(*d*) where such young person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

Engagement of young persons as trimmers or stokers.

37C. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship registered in British India, and no young lascar shall be engaged or carried to sea to work as a trimmer or stoker in any foreign ship.

(*2*) Sub-section (*1*) shall not apply—

(*a*) to any work of trimming or stoking done by a young person in a school-ship or training-ship in accordance with the prescribed conditions; or

(*b*) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam; or

(*c*) to the engagement or carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a coasting ship, provided he is employed in accordance with the prescribed conditions.

(*3*) Where in any port a trimmer or stoker is required for any ship mentioned in sub-section (*1*), other than a coasting-ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(*4*) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

Medical examination of young persons.

37D. (*1*) Subject to the provisions of sub-section (*2*), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in British India, and no young lascar shall be engaged or carried to sea to work in any capacity in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(*2*) Sub-section (*1*) shall not apply—

(*a*) to the employment of a young person in a ship in which all persons employed are members of one family; or

(*b*) where the shipping-master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (*1*) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (*1*).

(*3*) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

Maintenance of list or register of young persons in a ship.

37E. There shall be included in every agreement with the crew of every ship registered in British India and every foreign ship, which engages young persons in British India, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

Penalty for contravention of sections 37B, 37C and 37D.

37F. If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for false representation by parent or guardian.

37G. If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees.

Penalty for failure to produce medical certificate for inspection.

37H. If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for failure to keep or produce for inspection a register of young persons.

37I. If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

Power to make rules.

37J. (*1*) The Governor General in Council may make rules prescribing—

(*a*) the conditions of employment of young persons, in any capacity, in school-ships and training-ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out;

(*b*) the conditions of employment of young persons as trimmers or stokers in coasting-ships;

(*c*) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37D; and

(*d*) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(*2*) Rules under clause (*b*) shall be made after consultation with such organisations in British India as the Governor General in Council may consider to be most representative of the employers of seamen and of seamen."

Insertion of new section 43A in Act XXI of 1923.

5. After section 43 of the said Act, the following section shall be inserted, namely:—

Certificate as to work of seaman.

" 43A. (*1*) The master of every ship, except home-trade ships of a burden not exceeding three hundred tons, shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate in a form sanctioned by the Governor General in Council stating—

(*a*) the quality of the work of the seaman; or

(*b*) whether the seaman has fulfilled his obligations under the agreement with the crew.

(*2*) If the master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees."

Insertion of new section 58A in Act XXI of 1923.

6. After section 58 of the said Act, the following section shall be inserted, namely:—

Special provision for ship-wrecked lascars.

" 58A. (*1*) Where the service of a lascar or native seaman employed on a ship registered in British India or engaged in British India for employment on a foreign ship terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, the lascar shall, notwithstanding anything contained in section 58, but subject to the provisions of this section, be entitled to receive—

(*a*) wages at the rate to which he was entitled at the date of the termination of service, until he is sent home or to a port near his home in accordance with section 75, or until he has been sent home or to a proper port of return in accordance with the Merchant Shipping Acts, or has in any other way reached his port of departure from India or a port near his home, as the case may be; and

(*b*) compensation for the loss of his effects up to one month's wages at the said rate.

(*2*) A lascar shall not be entitled to receive wages under clause (*a*) of sub-section (*1*) in respect of any period during which—

(*a*) he was or could have been suitably employed; or

(*b*) he negligently failed to apply to the proper authority for relief as a distressed or destitute lascar."

Amendment of section 85, Act XXI of 1923.

7. In section 85 of the said Act,—

(*a*) for sub-section (1) the following sub-section shall be substituted, namely:—

" (*1*) All British ships and all ships upon which seamen have been shipped in British India shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.";

(*b*) in sub-section (*2*), for the words " the officer or person making the examination " the words " any person making an inspection under section 91 " shall be substituted;

(*c*) in sub-section (*4*),—

(*i*) for the words " The officer directing or the person making the examination " the words " The person making the inspection " shall be substituted; and

(*ii*) for the word " examination ", where it occurs the second time, the word " inspection " shall be substituted; and

(*d*) in sub-section (*5*), for the words "If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants" the following shall be substituted, namely:—

"If the inspection was made in pursuance of a request by members of the crew and the person making the inspection certifies in the statement of the result of the inspection that there was no reasonable ground for the request, every member of the crew who made the request".

Amendment of section 91, Act XXI of 1923. Inspection of provisions, water, medicines, and appliances, weights and measures and accommodation.

8. For section 91 of the said Act, the following section shall be substituted, namely:—

"91. A shipping-master, deputy shipping-master, or other officer duly appointed in this behalf by the Governor General in Council, at any port—

(*a*) in the case of any ship upon which seamen have been shipped at that port, may at any time, and

(*b*) in the case of any British ship, may at any time, and, if the master or three or more of the crew so request, shall,

enter on board the ship and inspect—

(*i*) the provisions and water,
(*ii*) the medicines and appliances,
(*iii*) the weights and measures,
(*iv*) the accommodation for seamen,

with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts."

Saving.

9. Nothing in section 2, section 3 or section 4 shall prevent the carrying to sea of a young person in a ship in which he is lawfully engaged to work at the commencement of this Act.

ACT No. X OF 1931.[1]

[*17th March, 1931.*]

An Act to make special provision for the administration of the port of Vizagapatam.

WHEREAS it is expedient to make special provision for the administration of the port of Vizagapatam; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Vizagapatam Port Act, 1931.

Construction of certain enactments.

2. The enactments specified in the Schedule shall, in their application to the port of Vizagapatam, be construed as if references in the

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 53.

said enactments to the Local Government, to the local official Gazette and to the Fort St. George Gazette were references to the Governor General in Council and to the Gazette of India, respectively, and, where anything done in respect of the said port under any of the said enactments is in force immediately before the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under that enactment as so construed. In their application to port of Vizagapatam.

SCHEDULE.

(1) *Act of the Governor General in Council.*—The Indian Ports Acts, 1908, with the exception of clause (*p*) of sub-section (*1*) of section 6, section 17, section 49 and section 50.

(2) *Madras Act.*—The Madras Outports Landing and Shipping Fees Act, 1885.

ACT No. XI OF 1931.[1]

[*17th March, 1931.*]

An Act further to amend the Indian Ports Act, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Ports Act, XV of 1908. 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Ports (Amendment) Act, 1931. Short title.

XV of 1908. **2.** In sub-section (*1A*) of section 6 of the Indian Ports Act, 1908, for the words " at piers, jetties, landing-places, wharves, quays, docks, warehouses and sheds " the words " in any port subject to this Act " shall be substituted. Amendment of section 6 of Act XV of 1908.

ACT No. XII OF 1931.[2]

[*5th April, 1931.*]

An Act to amend the Indian Reserve Forces Act, 1888, for certain purposes.

WHEREAS it is expedient to amend the Indian Reserve Forces Act, IV of 1888. 1888, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Reserve Forces (Amendment) Act, 1931. Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 20.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 74.

Substitution of new section for section 2, Act IV of 1888.

2. For section 2 of the Indian Reserve Forces Act, 1888 (hereinafter referred to as the said Act), the following section shall be substituted, namely:— IV of 1888.

Division of Reserve Forces into Regular and Supplementary Reserves.

"2. The Indian Reserve Forces shall consist of the Regular Reserve and the Supplementary Reserve."

Amendment of section 3, Act IV of 1888.

3. In section 3 of the said Act—

(*a*) in sub-section (*1*)—

(*i*) the figure and brackets "(*1*)" shall be omitted, and

(*ii*) for the words "Active Reserve", the words "Indian Reserve Forces" shall be substituted; and

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 5, Act IV of 1888.

4. In section 5 of the said Act, the words "the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to" shall be omitted.

Amendment of section 6, Act IV of 1888.

5. In sub-section (*1*) of section 6 of the said Act—

(*a*) in clause (*i*), for the words "Indian Articles of War", the words and figures "Indian Army Act, 1911", shall be substituted, and

(*b*) in clause (*ii*), after the word "by", the words "a Presidency Magistrate or" shall be inserted.

Repeal of section 7, Act IV of 1888.

6. Section 7 of the said Act is repealed.

ACT No. XIII OF 1931.[1]

[*5th April, 1931.*]

An Act further to amend the Indian Factories Act, 1911, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, for the purpose hereinafter appearing; It is hereby enacted as follows:— XII of 1911.

Short title.

1. This Act may be called the Indian Factories (Amendment) Act, 1931.

Amendment of section 37, Act XII of 1911.

2. After clause (*i*) of sub-section (*2*) of section 37 of the Indian Factories Act, 1911, the following clause shall be inserted, namely:— XII of 1911.

"(*ii*) precautions against fire:".

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 91.

ACT No. XIV OF 1931.[1]

[*5th April, 1931.*]

An Act to impose a temporary additional duty of customs on foreign salt.

WHEREAS it is expedient in the interests of the Indian salt industry to impose a temporary additional duty of customs on the import of foreign salt and at the same time to make provision for safeguarding the interests of consumers of salt; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Salt (Additional Import Duty) Act, 1931.

(*2*) It extends to the whole of British India.

(*3*) It shall have effect only up to the 31st day of March, [2][1933].

Definition of maund.

2. In this Act a "maund" means a maund of eighty-two and two-sevenths pounds avoirdupois.

Additional duty of customs on salt.

3. [3][(*1*)] Save as hereinafter provided, there shall be levied and collected, in addition to any duty of customs imposed by or under any enactment for the time being in force, an additional duty of customs on salt imported into any port in British India except Aden and Perim, at the rate of four and a half annas per maund.

[4][(*2*) Notwithstanding anything contained in section 4 of the Indian Finance (Supplementary and Extending) Act, 1931, the additional duty of customs imposed by that section shall not be levied or collected in respect of the additional duty of customs on salt imposed by sub-section (*1*).]

Power to impose further additional duty.

4. If the Governor General in Council is satisfied, after such inquiry as he thinks fit, that salt not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be afforded to the Indian salt industry by the additional duty imposed by section 3, he may, by notification in the Gazette of India, increase such duty to such extent, not exceeding one anna per maund, as he thinks fit.

Exemption of Indian salt from additional duties.

5. (*1*) The additional duty imposed by section 3, and any further duty which may be imposed under section 4, shall not, save as hereinafter provided, be levied and collected on salt produced in India.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 92.

This Act came into effect on 17th March, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1918 (16 of 1918).

This Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1932, Pt. II, p. 322.

[2] These figures were substituted for the figures "1932" by s. 2 of the Salt Additional Import Duty (Extending) Act, 1932 (7 of 1932).

[3] The original s. 3 was re-numbered by s. 3, *ibid.*

[4] This sub-section was added, *ibid.*

(*2*) The Governor General in Council may at any time require any producer of salt in India to enter into an undertaking, within such time as the Governor General in Council may specify, that he will, when so required from time to time by the prescribed authority, sell to the Secretary of State for India in Council fine white salt of the quality usually made by such producer.

(*3*) In making a requisition under sub-section (*2*) the prescribed authority may specify, in such manner as may be reasonable in the circumstances of the case,—

(*a*) the amount of salt to be sold,

(*b*) the port or ports where such salt is to be delivered, and

(*c*) the time within which the salt is to be delivered at the port or ports of delivery.

(*4*) The price to be paid for such salt delivered free of charge at the port of delivery shall be sixty-three rupees eleven annas per hundred maunds at the port of Calcutta, and at any other port shall be sixty-three rupees eleven annas per hundred maunds with an addition or deduction, as the case may be, on account of the difference between the freight from the port of shipment to Calcutta and the freight from the port of shipment to the port of delivery.

(*5*) If any producer of salt required to enter into an undertaking under sub-section (*2*) fails to enter into such undertaking within the time specified, or, having entered into such undertaking, fails in the opinion of the Governor General in Council to fulfil it, the Governor General in Council may, by notification in the Gazette of India, direct that all salt produced by such producer shall, on being taken by sea into any port in British India, be chargeable with the additional duty imposed by section 3 and with any further additional duty which may be imposed under section 4.

Power to make rules.

6. The Governor General in Council may, by notification in the Gazette of India, make rules—

(*a*) prescribing the form of undertaking to be entered into by producers of salt under section 5;

(*b*) determining the prescribed authorities for the purposes of that section; and

(*c*) generally, to give effect to the provisions of this Act.

ACT No. XV OF 1931.[1]

[*5th April, 1931.*]

An Act to impose a temporary duty of customs on the importation of wheat.

WHEREAS it is expedient to assist the sale in India of wheat produced therein by imposing a temporary duty of customs on the importation of wheat; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Wheat (Import Duty) Act, 1931.

(*2*) It extends to the whole of British India, except Aden and Perim.

(*3*) It shall have effect only up to the 31st day of March, [2][1933].

Duty of customs on wheat.

2. Notwithstanding anything contained in Part I of Schedule II to the Indian Tariff Act, 1894, there shall be levied and collected, save as hereinafter provided, a duty of customs on wheat imported into any port to which this Act applies, at the rate of two rupees per hundredweight.

VIII of 1894.

3. [*Exemption from duty of wheat already ordered.*] *Rep. by the Wheat Import Duty (Extending) Act, 1932 (3 of 1932).*

Duty of customs on wheat flour.

4. Notwithstanding anything contained in Part V of Schedule II to the Indian Tariff Act, 1894, or in section 4 of the Indian Finance Act, 1931, the duty of customs to be levied and collected on wheat flour imported into any port to which this Act applies shall be at the rate of two rupees per hundredweight.

VIII of 1894.

Power to remit or reduce the duty.

5. (*1*) If, after such inquiry as he thinks necessary, the Governor General in Council is of opinion that the duty of customs imposed by section 2 has become unnecessary or excessive, he may, by notification in the Gazette of India, remit such duty or reduce it to such extent as he thinks fit.

(*2*) If, after such inquiry as he thinks necessary, the Governor General in Council is of opinion that the duty of customs imposed by section 4 is excessive he may, by notification in the Gazette of India,—

(*a*) reduce such duty to such extent as he thinks fit, but not so as to make it lower than an *ad valorem* duty of twenty per cent., or

(*b*) declare that section 4 shall cease to have effect.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 93.

This Act came into effect on 20th March, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1918 (16 of 1918).

[2] These figures were substituted for the figures "1932" by s. 2 of the Wheat Import Duty (Extending) Act, 1932 (3 of 1932).

ACT No. XVI OF 1931.[1]

[*28th September, 1931.*]

An Act to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise.

WHEREAS it is expedient to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Provisional Collection of Taxes Act, 1931.

Definition.

2. In this Act, a " declared provision " means a provision in a Bill in respect of which a declaration has been made under section 3.

Power to make declarations under this Act.

3. Where a Bill to be introduced in the Indian Legislature on behalf of Government provides for the imposition or increase of a duty of customs or excise, the Governor General in Council may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.

Effect of declarations under this Act, and duration thereof.

4. (*1*) A declared provision shall have the force of law immediately on the expiry of the day on which the Bill containing it is introduced.

(*2*) A declared provision shall cease to have the force of law under the provisions of this Act—

(*a*) when it comes into operation as an enactment, with or without amendment, or

(*b*) when the Governor General in Council, in pursuance of a motion passed by either Chamber of the Indian Legislature, directs, by notification in the Gazette of India, that it shall cease to have the force of law, or

(*c*) if it has not already ceased to have the force of law under clause (*a*) or clause (*b*), then on the expiry of the sixtieth day after the day on which the Bill containing it was introduced.

Certain refunds to be made when declarations cease to have effect.

5. (*1*) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which the Bill containing it was introduced, refunds shall be made of all duties collected which would not have been collected if the provision adopted in the enactment had been the declared provision:

Provided that the rate at which refunds of any duty may be made under this sub-section shall not exceed the difference between the rate

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 110.

of such duty proposed in the declared provision and the rate of such duty in force when the Bill was introduced.

(2) Where a declared provision ceases to have the force of law under clause (*b*) or clause (*c*) of sub-section (2) of section 4, refunds shall be made of all duties collected which would not have been collected if the declaration in respect of it had not been made.

XVI of 1918. **6.** The Provisional Collection of Taxes Act, 1918, is repealed. Repeal.

ACT No. XVII OF 1931.[1]

[*1st October, 1931.*]

An Act further to amend the Indian Succession Act, 1925, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Succession Act, XXXIX of 1925. 1925, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Succession (Amendment) Act, 1931. Short title.

2. After the word "mind" in sections 223 and 236 of the Indian Succession Act, 1925, the following words shall be added, namely:— Amendment of sections 223 and 236, Act XXXIX of 1925.

XXXIX of 1925.

"nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by the Governor General in Council in this behalf."

ACT No. XVIII OF 1931.[2]

[*1st October, 1931.*]

An Act to amend the Aligarh Muslim University Act, 1920, for certain purposes.

WHEREAS it is expedient to amend the Aligarh Muslim University XL of 1920. Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Aligarh Muslim University (Amendment) Act, 1931. Short title and commencement.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 103.

The Act has been declared in force in the Sonthal Parganas by Notification under section 3 of Regulation 3 of 1872, *see* B. & O. Gazette, 1932, Pt. II, p. 322.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 105.

(*2*) It shall come into force on such date[1] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Amendment of section 12, Act XL of 1920.

2. For section 12 of the Aligarh Muslim University Act, 1920 (hereinafter referred to as the said Act), the following sections shall be substituted, namely:— XL of 1920.

Power to establish and maintain high schools and other institutions.

"12. (*1*) The University shall, subject to the Statutes, have power to establish and maintain high schools, within such limits in the Aligarh District as may be laid down in the Ordinances, for the purpose of preparing students for admission to the University, and may provide for instruction in the Muslim religion and theology therein.

(*2*) The University may also, with the sanction of the Governor General in Council on the recommendation of the Visiting Board, and subject to the Statutes and Ordinances, establish and maintain, within such limits in the Aligarh District as may be laid down in the Ordinances, any other institution whose objects fall within the powers of the University as described in section 5.

Power to recognise Intermediate colleges and schools.

12A. With the approval of the Academic Council and the sanction of the Governor General in Council on the recommendation of the Visiting Board, and subject to the Statutes and Ordinances, the University may admit Intermediate colleges and schools in the Aligarh District to such privileges of the University as it thinks fit."

Amendment of section 27, Act XL of 1920.

3. In clause (*k*) of section 27 of the said Act, for the words "Intermediate colleges and schools" the words "high schools and other institutions in accordance with the provisions of section 12" shall be substituted.

Amendment of section 29 Act XL of 1920.

4. In section 29 of the said Act,—

(*a*) in clause (*a*), for the words "laid down for all degrees and diplomas of" the words "pursued in" shall be substituted;

(*b*) in clause (*c*), for the words "the degree or diploma courses and to the" the words "courses of study and" shall be substituted;

(*c*) for clause (*j*), the following clauses shall be substituted, namely:—

"(*j*) the management of high schools and other institutions established under section 12;

(*k*) the supervision of Intermediate colleges and schools admitted to privileges of the University under section 12A; and"; and

(*d*) clause (*k*) shall be relettered as clause (*l*).

[1] This Act came into force on the 1st October, 1932, *see* Gazette of India, 1931, Pt. I, p. 1164.

5. In section 32 of the said Act,— Amendment of section 32, Act XL of 1920.

(*a*) in sub-section (*1*), the words " the Principal of an Intermediate College who shall be selected by the Vice-Chancellor " shall be omitted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

" (*2A*) Students shall not be eligible for admission to the Intermediate classes in Arts and Science unless they have passed the Matriculation Examination of an Indian University incorporated by any law for the time being in force, or an examination recognised in accordance with the provisions of this section as equivalent to the Matriculation Examination, and possess such further qualifications as may be prescribed by the Ordinances "; and

(*c*) in sub-section (*4*),—

(*i*) for the words " for a degree " the words " in the University " shall be substituted; and

(*ii*) after the word " Intermediate " the words " or Matriculation " shall be inserted.

ACT No. XIX OF 1931.[1]

[*1st October, 1931.*]

An Act to amend the Land Customs Act, 1924, for a certain purpose.

XIX of 1924. WHEREAS it is expedient to amend the Land Customs Act, 1924, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Land Customs (Amendment) Act, 1931. Short title.

XIX of 1924. 2. Section 7 of the Land Customs Act, 1924, shall be renumbered as sub-section (*1*) of section 7, and to the said section so re-numbered the following sub-sections shall be added, namely:— Amendment of section 7, Act XIX of 1924.

" (*2*) Where any dutiable goods, or any goods in respect of which a notification under section 19 of the Sea Customs Act, 1878, prohibiting the bringing or taking by land of such goods into British India or any specified part thereof, has been issued, are passed by land out of any foreign territory and the Land Customs Officer is of opinion that an offence under sub-section (1) has been committed in respect of such

VIII of 1878.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 107.

goods and that the penalty provided in that sub-section is inadequate, he may make a complaint to a magistrate having jurisdiction.

(*3*) Such magistrate shall thereupon inquire into and try the charge brought against the accused person and, upon conviction, may sentence him to imprisonment of either description for a term which may extend to six months, or to fine not exceeding one thousand rupees, or to both, and may confiscate the goods in respect of which the offence has been committed."

ACT No. XX OF 1931.[1]

[*1st October, 1931.*]

An Act to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody.

WHEREAS it is expedient to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Sheriff of Calcutta (Powers of Custody) Act, 1931.

Extension of the powers of custody of the Sheriff in certain cases.

2. (*1*) Where the Sheriff of the High Court of Judicature at Fort William in Bengal in the discharge of his duties is taking any person in his lawful custody to or from the Presidency Jail, and circumstances are such that he is unable without undue inconvenience to proceed by a route lying wholly within the local limits of the ordinary original civil jurisdiction of the said High Court, it shall be lawful for the Sheriff to proceed by any convenient route lying partly outside the said local limits, and in so doing his custody of such person shall continue to be lawful.

(*2*) For the purposes of this section "the Sheriff of the High Court of Judicature at Fort William in Bengal" includes any officer or other person acting with the authority or under the orders of the said Sheriff.

Retrospective effect.

3. This Act shall have retrospective effect as if it had commenced on the 1st day of September, 1925.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 104.

ACT No. XXI OF 1931.[1]

[*1st October, 1931.*]

An Act further to amend the Indian Mines Act, 1923, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Mines Act, IV of 1923. 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Mines (Amendment) Act, 1931. **Short title.**

IV of 1923. **2.** In section 3 of the Indian Mines Act, 1923, after clause (*c*), the following clause shall be inserted, namely:— **Amendment of section 3, Act IV of 1923.**

"(*cc*) 'District Magistrate' means, in a Presidency-town, the person appointed by the Local Government to perform the duties of a District Magistrate under this Act in that town."

ACT No. XXII OF 1931.[2]

[*1st October, 1931.*]

An Act to provide for the protection of the heavy chemical industry.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the protection of the heavy chemical industry; It is hereby enacted as follows:—

1. This Act may be called the Heavy Chemical Industry (Protection) Act, 1931. **Short title.**

VIII of 1894. **2.** In the Second Schedule to the Indian Tariff Act, 1894— **Amendment of Schedule II, Act VIII of 1894.**

(*a*) Item No. 14A shall be omitted, and

(*b*) in Part VII and before Item No. 142, the following heading and Item shall be inserted, namely:—

"CHEMICALS, DRUGS AND MEDICINES.

141B	HEAVY CHEMICALS, the following:—	
	(1) Acid, hydrochloric	Rs. 2-9-0 per cwt.
	(2) Acid, nitric—	
	having a density at 15°C. of not more than 1·42 grammes per cubic centimetre;	Rs. 3-10-0 per cwt.
	having a density at 15°C. of more than 1·42 grammes per cubic centimetre.	Rs. 5-3-0 per cwt.
	(3) Acid, sulphuric	Rs. 1-4-0 per cwt.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 102.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 109.

This Act has been declared in force in the Sonthal Parganas by Notification under s. 3 (3) (*a*) of Reg. 3 of 1872, *see* B. & O. Gazette, 1932, Pt. II, p. 322.

(4) Alum, namely, ammonia alum, potash alum or soda alum.	As. 15 per cwt.
(5) Aluminium sulphate or hydrated aluminium sulphate, including alumino-ferric and alum cake—	
containing not more than 0·01 per cent. of iron;	As. 13 per cwt.
containing more than 0·01 per cent. of iron .	As. 9 per cwt.
(6) Copper sulphate or hydrated copper sulphate .	Rs. 3 per cwt.
(7) Magnesium chloride	As. 7 per cwt.
(8) Magnesium sulphate or hydrated magnesium sulphate—	
containing not more than 50 per cent. of magnesium sulphate;	Rs. 1-4-0 per cwt.
containing more than 50 per cent. of magnesium sulphate.	Rs. 2-8-0 per cwt.
(9) Sodium sulphate or hydrated sodium sulphate—	
containing not more than 50 per cent. of sodium sulphate;	As. 6 per cwt.
containing more than 50 per cent. of sodium sulphate.	As. 13 per cwt.
(10) Sodium sulphide or hydrated sodium sulphide .	Rs. 1-7-0 per cwt.
(11) Zinc chloride or zinc chloride solution: . .	Rs. 4-5-0 per cwt.
Provided that the duty on any article included in this item shall in no case be less than the duty which would be charged if the article were included in Part V of this Schedule."	

Duration.

3. The amendments made by section 2 shall, in so far as they relate to heavy chemicals other than magnesium chloride, have effect only up to the 31st day of March, 1933, and, in so far as they relate to magnesium chloride, shall have effect only up to the 31st day of March, 1939.

Power to increase duty on magnesium chloride.

4. If the Governor General in Council is satisfied, after such inquiry as he thinks necessary, that magnesium chloride chargeable with duty under Item No. 141B, as above inserted in the Second Schedule to the Indian Tariff Act, 1894, is being imported into British India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to the manufacture of magnesium chloride in India, he may, by notification in the Gazette of India, increase such duty to such extent as he thinks necessary. VIII of 1894.

ACT No. XXIII OF 1931.[1]

[*9th October, 1931.*]

An Act to provide [for the better control of the press][2].

WHEREAS it is expedient to provide [for the better control of the press][2]; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Indian Press (Emergency Powers) Act, 1931.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, pp. 14, 101 and 133; for Report of Select Committee *see ibid*, p. 113.

[2] These words were substituted for the words " against the publication of matter inciting to or encouraging murder or violence " by s. 14 of the Criminal Law Amendment Act, 1932 (23 of 1932).

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

[1][(*3*) It shall remain in force until the expiration of the Criminal Law Amendment Act, 1932.]

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) " book " includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

(*2*) " document " includes also any painting, drawing or photograph or other visible representation;

(*3*) " High Court " means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras;

(*4*) " Magistrate " means a District Magistrate or Chief Presidency Magistrate;

(*5*) " newspaper " means any periodical work containing public news or comments on public news;

(*6*) " news-sheet " means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (*1*) of section 4;

(*7*) " press " includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;

(*8*) " printing-press " includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;

(*9*) " unauthorised newspaper " means—

(*a*) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and XXV of 1867.

(*b*) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;

(*10*) " unauthorised news-sheet " means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and

(*11*) " undeclared press " means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867. XXV of 1867.

[1] This sub-section was substituted by s. 15 of the Criminal Law Amendment Act, 1932 (23 of 1932).

Control of printing-presses and newspapers.

Deposit of security by keepers of printing-presses.

3. (*1*) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose: XXV of 1867.

Provided that if a deposit has been required under sub-section (*3*) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(*2*) Where security required under sub-section (*1*) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (*1*) no order is made by the Local Government under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(*3*) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (*2*), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (*1*), the Local Government may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(*4*) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security or press forfeited in certain cases.

4. (*1*) Whenever it appears to the Local Government that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

(*a*) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(*b*) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence, ·

[1][or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,];

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above,—

(*i*) where security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(*ii*) where security has not been deposited, declare the press to be forfeited to His Majesty,

[1] These words and clauses were inserted by section 16 of the Criminal Law Amendment Act, 1932 (23 of 1932).

and may also declare all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation [1][*1*].—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (*a*).

[1][*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (*h*) of this sub-section.]

(*2*) After the expiry of ten days from the date of the issue of a notice under sub-section (*1*) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

5. (*1*) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit XXV of 1867. with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(*2*) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (*1*).

Power to declare further security and publications forfeited.

6. (*1*) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (*1*), the Local Government

[1] The original explanation was re-numbered 1 and the explanations 2 to 4 were inserted by section 16 of the Criminal Law Amendment Act, 1932 (23 of 1932).

may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(*a*) the further security so deposited, or any portion thereof, and

(*b*) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty.

(*2*) After the expiry of ten days from the issue of a notice under sub-section (*1*), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867.

Deposit of security by publisher of newspaper.

7. (*1*) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose:

XXV of 1867.

Provided that if a deposit has been required under sub-section (*3*) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(*2*) Where security required under sub-section (*1*) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (*1*) no order is made by the Local Government under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(*3*) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (*2*), contains any words, signs or visible representations of the nature described in section 4, sub-section (*1*), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(*4*) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

Power to declare security forfeited in certain cases.

8. (*1*) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (*1*), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,—

(*a*) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(*b*) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, XXV of 1867.

and may also declare all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

(*2*) After the expiry of ten days from the date of the issue of a notice under sub-section (*1*) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

9. (*1*) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose. XXV of 1867.

(*2*) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (*1*).

Power to declare further security and newspapers forfeited.

10. (*1*) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (*1*), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

(*a*) the further security so deposited, or any portion thereof, and

(*b*) all copies of such newspaper wherever found in British India

to be forfeited to His Majesty.

(*2*) After the expiry of ten days from the date of the issue of a notice under sub-section (*1*), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, XXV of 1867. 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the Local Government.

Penalty for keeping press or publishing newspaper without making deposit.

11. (*1*) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the Local Government or the Magistrate as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration XXV of 1867. prescribed by section 4 of the Press and Registration of Books Act, 1867.

(*2*) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the Local Government or the Magistrate as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and XXV of 1867. Registration of Books Act, 1867.

Consequences of failure to deposit security as required.

12. (*1*) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(*2*) Where any printing-press is used in contravention of sub-section (*1*), the Local Government may, by notice in writing to the keeper thereof, declare the press to be forfeited to His Majesty.

(*3*) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and XXV of 1867. Registration of Books Act, 1867, shall be deemed to be annulled.

Return of deposited security in certain cases.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of XXV of 1867. the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Issue of search warrant.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the Local Govern-

ment may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(*i*) where any such property may be or may be reasonably suspected to be, or

(*ii*) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

Authorisation of persons to publish news-sheets.

15. (*1*) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(*2*) A copy of an order under sub-section (*1*) shall be furnished to the person thereby authorised.

(*3*) The Magistrate may at any time revoke an order made by him under sub-section (*1*).

Power to seize and destroy unauthorised news-sheets and newspapers.

16. (*1*) Any police-officer, or any other person empowered in this behalf by the Local Government, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(*2*) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(*3*) All documents seized under sub-section (*1*) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (*2*) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(*4*) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898 V of 1898.

(Unauthorised news-sheets and newspapers. Special provisions relating to the seizure of certain documents.)

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and news-papers.

17. (*1*) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(*2*) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(*3*) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

V of 1898.

(*4*) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (*4*) of section 16.

Penalty for disseminating unauthorised news-sheets and news-papers.

18. (*1*) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section (*1*), and any abetment of any such offence, shall be cognizable.

V of 1898.

Special provisions relating to the seizure of certain documents.

Power to declare certain publications forfeited and to issue search warrants for same.

19. Where any newspaper, book or other document wherever made appears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (*1*), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by war-

rant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to detain packages containing certain publications when imported into British India.

20. The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (*1*), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Prohibition of transmission by post of certain documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

Power to detain articles being transmitted by post.

22. Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(*a*) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (*1*), or

(*b*) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Powers of High Court.

Application to High Court to set aside order of forfeiture.

23. (*1*) The keeper of a printing-press who has been ordered to deposit security under sub-section (*3*) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (*3*) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (*1*).

(*2*) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (*2*) of section 12 on the

ground that it has been used in contravention of sub-section (*1*) of that section may apply to such High Court to set aside the order on the ground that the press was not so used.

Hearing by Special Bench.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

Order of Special Bench setting aside forfeiture.

25. (*1*) If it appears to the Special Bench on an application under sub-section (*1*) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (*1*), the Special Bench shall set aside the order.

(*2*) If it appears to the Special Bench on an application under sub-section (*2*) of section 23 that the printing-press was not used in contravention of sub-section (*1*) of section 12, it shall set aside the order of forfeiture.

(*3*) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(*4*) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

Evidence to prove nature or tendency of newspapers.

26. On the hearing of an application under sub-section (*1*) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made.

Procedure in High Court.

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Supplemental.

Service of notices.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898:

V of 1898.

Provided that if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867,

XXV of 1867.

and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act; and thereupon the notice shall be deemed to have been duly served.

Conduct of searches.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. V of 1898.

Jurisdiction barred.

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

Operation of other laws not barred.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

Declarations under Act XXV of 1867 to be made before certain Magistrates.

32. So long as this Act remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate. XXV of 1867.

ACT No. I OF 1932.[1]

[*5th March, 1932.*]

An Act to amend the Indian Companies (Amendment) Act, 1930, for a certain purpose.

WHEREAS it is expedient to amend the Indian Companies (Amendment) Act, 1930, for the purpose hereinafter appearing; It is hereby enacted as follows:— XIX of 1930.

Short title.

1. This Act may be called the Indian Companies (Supplementary Amendment) Act, 1932.

Amendment of section 2, Act XIX of 1930.

2. In the proviso substituted by sub-clause (*ii*) of clause (*a*) of section 2 of the Indian Companies (Amendment) Act, 1930, for the words " whereof the partners all ", the words " whereof all the partners practising in India " shall be substituted. XIX of 1930.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 14.

ACT No. II OF 1932.[1]

[*5th March, 1932.*]

An Act to repeal the Employers and Workmen (Disputes) Act, 1860.

WHEREAS it is expedient to repeal the Employers and Workmen (Disputes) Act, 1860; It is hereby enacted as follows:—

IX of 1860.

1. This Act may be called the Employers and Workmen (Disputes) Repealing Act, 1932. Short title.

IX of 1860.

2. The Employers and Workmen (Disputes) Act, 1860, is hereby repealed. Repeal of Act IX of 1860.

ACT No. III OF 1932.[2]

[*5th March, 1932.*]

An Act to extend the operation of the Wheat (Import Duty) Act, 1931.

WHEREAS it is expedient to extend the operation of the Wheat (Import Duty) Act, 1931; It is hereby enacted as follows:—

XV of 1931.

1. This Act may be called the Wheat Import Duty (Extending) Act, 1932. Short title.

2. In sub-section (*3*) of section 1 of the Wheat (Import Duty) Act, 1931, for the figures " 1932 " the figures " 1933 " shall be substituted. Amendment of section 1, Act XV of 1931.

XV of 1931.

XV of 1931.

3. Section 3 of the Wheat (Import Duty) Act, 1931, is hereby repealed. Repeal of section 3, Act XV of 1931.

ACT No. IV OF 1932.[3]

[*5th March, 1932.*]

An Act to amend the Indian Finance (Supplementary and Extending) Act, 1931, for a certain purpose.

WHEREAS it is expedient to amend the Indian Finance (Supplementary and Extending) Act, 1931, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Finance (Supplementary and Extending) Amendment Act, 1932. Short title.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 15.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 47.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 18.

Amendment of section 7, Indian Finance (Supplementary and Extending) Act, 1931.

2. To section 7 of the Indian Finance (Supplementary and Extending) Act, 1931, the following sub-section shall be added, namely:—

[*Infra*, p. 444.]

Amendment of Part I, Schedule II to the Indian Finance (Supplementary and Extending) Act, 1931.

3. After Part I of Schedule II to the Indian Finance (Supplementary and Extending) Act, 1931, the following Part shall be inserted, namely:—

[*Infra*, p. 448.]

ACT No. V OF 1932.[1]

[*5th March, 1932.*]

An Act to provide for the fostering and development of the wire and wire nail industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the wire and wire nail industry by increasing the import duty leviable, with certain exceptions, on wire and wire nails, for the period of two years; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Wire and Wire Nail Industry (Protection) Act, 1932.

Amendment of Schedule II, Act VIII of 1894.

2. (*1*) In Schedule II to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. VIII of 1894.

(*2*) The amendments made by sub-section (*1*) shall have effect up to the 31st day of March, 1934.

Bar of operation of section 4, Indian Finance (Supplementary and Extending) Act, 1931.

3. Notwithstanding anything contained in section 4 of the Indian Finance (Supplementary and Extending) Act, 1931, the additional duty of customs imposed by that section shall not be levied or collected on iron or steel wire or wire nails comprised in item No. 149 of Schedule II of the Indian Tariff Act, 1894, as inserted by Item No. 2 of the Schedule to this Act. VIII of 1894.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 44; for Report of Select Committee, *see ibid*, p. 49.

THE SCHEDULE.

(*See* section 2.)

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

1. In Item No. 61,—

(*a*) for the sub-item—

"IRON OR STEEL nails and washers, all sorts," the following sub-item shall be substituted, namely:—

"IRON OR STEEL nails and washers, all sorts, not otherwise specified.";

and

(*b*) for the sub-item—

"IRON OR STEEL wire, including fencing-wire and wire-rope but excluding wire-netting"

the following sub-item shall be substituted, namely:—

"IRON OR STEEL barbed or stranded fencing-wire and wire-rope".

2. In Part VII, after Item No. 148, the following item shall be inserted, namely:—

"149	IRON OR STEEL— (*a*) wire, other than barbed or stranded fencing-wire, wire-rope or wire-netting; and (*b*) wire nails	Rs. 45 per ton."

ACT No. VI OF 1932.[1]

[*5th March, 1932.*]

An Act further to amend the law relating to the fostering and development of the bamboo paper industry in British India.

WHEREAS it is expedient further to amend the law relating to the fostering and development of the bamboo paper industry in British India; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bamboo Paper Industry (Protection) Act, 1932.

Amendment of section 2, Act XXV of 1925.

2. In sub-section (*2*) of section 2 of the Bamboo Paper Industry (Protection) Act, 1925, for the figures "1932" the figures "1939" shall be substituted.

XXV of 1925.

Amendment of section 2, Act XX of 1927.

3. In sub-section (*2*) of section 2 of the Bamboo Paper Industry (Protection) Act, 1927, for the figures "1932" the figures "1939" shall be substituted.

XX of 1927.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 45; for Report of Select Committee, *see ibid*, p. 52.

Amendment of Schedule II, Act VIII of 1894, and Schedule to Act XX of 1927.

4. In Item No. 155 of Schedule II to the Indian Tariff Act, 1894, as enacted by the Bamboo Paper Industry (Protection) Act, 1927, for the figures and words " 65 per cent." the figures and words " 70 per cent." shall be substituted. VIII of 1894. XX of 1927.

Amendment of Schedule II, Act VIII of 1894.

5. (*1*) In Schedule II to the Indian Tariff Act, 1894,— VIII of 1894.

(*a*) for Item No. 10, the following shall be substituted, namely:—

" 10	RAGS and other paper-making materials, excluding wood pulp ";	

and

(*b*) in Part VII, after Item No. 159, the following item shall be inserted, namely:—

" 160	WOOD PULP	Ton	Rs. 45."

(2) The amendments made by sub-section (*1*) shall have effect up to the 31st day of March, 1939.

ACT No. VII OF 1932.[1]

[*31st March, 1932.*]

An Act to extend the operation of the Salt (Additional Import Duty) Act, 1931.

WHEREAS it is expedient to extend the operation of the Salt (Additional Import Duty) Act, 1931; It is hereby enacted as follows:— XIV of 1931.

Short title.

1. This Act may be called the Salt Additional Import Duty (Extending) Act, 1932.

Amendment of section 1, Act XIV of 1931.

2. In sub-section (*3*) of section 1 of the Salt (Additional Import Duty) Act, 1931 (hereinafter referred to as the said Act), for the figures " 1932 " the figures " 1933 " shall be substituted. XIV of 1931.

Amendment of section 3, Act XIV of 1931.

3. In section 3 of the said Act,—

(*a*) the existing section shall be numbered as sub-section (*1*), and

(*b*) the following sub-section shall be added, namely:—

[*Supra.*, p. 265.]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 123.

THE INDIAN PARTNERSHIP ACT, 1932.

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SCHEDULE I.

SCHEDULE II.

ACT No. IX OF 1932.[1]

[*8th April, 1932.*]

An Act to define and amend the law relating to partnership.

WHEREAS it is expedient to define and amend the law relating to partnership; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Partnership Act, 1932.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the 1st day of October, 1932, except section 69, which shall come into force on the 1st day of October, 1933.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) an " act of a firm " means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm;

(*b*) " business " includes every trade, occupation and profession;

(*c*) " prescribed " means prescribed by rules made under this Act;

(*d*) " third party " used in relation to a firm or to a partner therein means any person who is not a partner in the firm; and

(*e*) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, shall have the meanings assigned to them in that Act. IX of 1872.

Application of provisions of Act IX of 1872.

3. The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to firms. IX of 1872.

CHAPTER II.

THE NATURE OF PARTNERSHIP.

Definition of " partnership ", " partner ", " firm " and " firm name ".

4. " Partnership " is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

[1] For Statement of Objects and Reasons and for Report of the Special Committee, *see* Gazette of India, 1931, Pt. V, p. 31; for Report of Select Committee, *see ibid*, 1932, Pt. V, p. 1.

Persons who have entered into partnership with one another are called individually " partners " and collectively " a firm ", and the name under which their business is carried on is called the " firm name ".

Partnership not created by status.

5. The relation of partnership arises from contract and not from status;

and, in particular, the members of a Hindu undivided family carrying on a family business as such, or a Burmese Buddhist husband and wife carrying on business as such are not partners in such business.

Mode of determining existence of partnership.

6. In determining whether a group of persons is or is not a firm, or whether a person is or is not a partner in a firm, regard shall be had to the real relation between the parties, as shown by all relevant facts taken together.

Explanation 1.—The sharing of profits or of gross returns arising from property by persons holding a joint or common interest in that property does not of itself make such persons partners.

Explanation 2.—The receipt by a person of a share of the profits of a business, or of a payment contingent upon the earning of profits or varying with the profits earned by a business, does not of itself make him a partner with the persons carrying on the business;

and, in particular, the receipt of such share or payment—

(*a*) by a lender of money to persons engaged or about to engage in any business,

(*b*) by a servant or agent as remuneration,

(*c*) by the widow or child of a deceased partner, as annuity, or

(*d*) by a previous owner or part owner of the business, as consideration for the sale of the goodwill or share thereof,

does not of itself make the receiver a partner with the persons carrying on the business.

Partnership at will.

7. Where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is " partnership at will ".

Particular partnership.

8. A person may become a partner with another person in particular adventures or undertakings.

CHAPTER III.

Relations of partners to one another.

General duties of partners.

9. Partners are bound to carry on the business of the firm to the greatest common advantage, to be just and faithful to each other, and

to render true accounts and full information of all things affecting the firm to any partner or his legal representative.

Duty to indemnify for loss caused by fraud.

10. Every partner shall indemnify the firm for any loss caused to it by his fraud in the conduct of the business of the firm.

Determination of rights and duties of partners by contract between the partners.

11. (*1*) Subject to the provisions of this Act, the mutual rights and duties of the partners of a firm may be determined by contract between the partners, and such contract may be express or may be implied by a course of dealing.

Such contract may be varied by consent of all the partners, and such consent may be express or may be implied by a course of dealing.

Agreements in restraint of trade.

(*2*) Notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such contracts may provide that a partner shall not carry on any business other than that of the firm while he is a partner. IX of 1872.

The conduct of the business.

12. Subject to contract between the partners—

(*a*) every partner has a right to take part in the conduct of the business;

(*b*) every partner is bound to attend diligently to his duties in the conduct of the business;

(*c*) any difference arising as to ordinary matters connected with the business may be decided by a majority of the partners, and every partner shall have the right to express his opinion before the matter is decided, but no change may be made in the nature of the business without the consent of all the partners; and

(*d*) every partner has a right to have access to and to inspect and copy any of the books of the firm.

Mutual rights and liabilities.

13. Subject to contract between the partners—

(*a*) a partner is not entitled to receive remuneration for taking part in the conduct of the business;

(*b*) the partners are entitled to share equally in the profits earned, and shall contribute equally to the losses sustained by the firm;

(*c*) where a partner is entitled to interest on the capital subscribed by him such interest shall be payable only out of profits;

(*d*) a partner making, for the purposes of the business, any payment or advance beyond the amount of capital he has agreed to subscribe, is entitled to interest thereon at the rate of six per cent. per annum;

(*e*) the firm shall indemnify a partner in respect of payments made and liabilities incurred by him—

(*i*) in the ordinary and proper conduct of the business, and

(*ii*) in doing such act, in an emergency, for the purpose of protecting the firm from loss, as would be done by a person of ordinary prudence, in his own case, under similar circumstances; and

(*f*) a partner shall indemnify the firm for any loss caused to it by his wilful neglect in the conduct of the business of the firm.

The property of the firm.

14. Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into the stock of the firm, or acquired, by purchase or otherwise, by or for the firm, or for the purposes and in the course of the business of the firm, and includes also the goodwill of the business.

Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm.

Application of the property of the firm.

15. Subject to contract between the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

Personal profits earned by partners.

16. Subject to contract between the partners,—

(*a*) if a partner derives any profit for himself from any transaction of the firm, or from the use of the property or business connection of the firm or the firm name, he shall account for that profit and pay it to the firm;

(*b*) if a partner carries on any business of the same nature as and competing with that of the firm, he shall account for and pay to the firm all profits made by him in that business.

17. Subject to contract between the partners,—

Rights and duties of partners after a change in the firm.

(*a*) where a change occurs in the constitution of a firm, the mutual rights and duties of the partners in the reconstituted firm remain the same as they were immediately before the change, as far as may be;

After the expiry of the term of the firm, and

(*b*) where a firm constituted for a fixed term continues to carry on business after the expiry of that term, the mutual rights and duties of the partners remain the same as they were before the expiry, so far as they may be consistent with the incidents of partnership at will; and

where additional undertakings are carried out.

(*c*) where a firm constituted to carry out one or more adventures or undertakings carries out other adventures or undertakings, the mutual rights and duties of the partners in respect of the other adventures or undertakings are the same as those in respect of the original adventures or undertakings.

CHAPTER IV.

RELATIONS OF PARTNERS TO THIRD PARTIES.

Partner to be agent of the firm.

18. Subject to the provisions of this Act, a partner is the agent of the firm for the purposes of the business of the firm.

Implied authority of partner as agent of the firm.

19. (*1*) Subject to the provisions of section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his "implied authority".

(*2*) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to—

(*a*) submit a dispute relating to the business of the firm to arbitration,

(*b*) open a banking account on behalf of the firm in his own name,

(*c*) compromise or relinquish any claim or portion of a claim by the firm,

(*d*) withdraw a suit or proceeding filed on behalf of the firm,

(*e*) admit any liability in a suit or proceeding against the firm,

(*f*) acquire immoveable property on behalf of the firm,

(*g*) transfer immoveable property belonging to the firm, or

(*h*) enter into partnership on behalf of the firm.

Extension and restriction of partner's implied authority.

20. The partners in a firm may, by contract between the partners, extend or restrict the implied authority of any partner.

Notwithstanding any such restriction, any act done by a partner on behalf of the firm which falls within his implied authority binds the firm, unless the person with whom he is dealing knows of the restriction or does not know or believe that partner to be a partner.

Partner's authority in an emergency.

21. A partner has authority, in an emergency, to do all such acts for the purpose of protecting the firm from loss as would be done by a person of ordinary prudence, in his own case, acting under similar circumstances, and such acts bind the firm.

Mode of doing act to bind firm.

22. In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm.

Effect of admissions by a partner.

23. An admission or representation made by a partner concerning the affairs of the firm is evidence against the firm, if it is made in the ordinary course of business.

Effect of notice to acting partner.

24. Notice to a partner who habitually acts in the business of the firm of any matter relating to the affairs of the firm operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Liability of a partner for acts of the firm.

25. Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

Liability of the firm for wrongful acts of a partner.

26. Where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm, or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefor to the same extent as the partner.

Liability of firm for misapplication by partners.

27. Where—

(*a*) a partner acting within his apparent authority receive money or property from a third party and misapplies it, or

(*b*) a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

Holding out.

28. (*1*) Any one who by words spoken or written or by conduct represents himself, or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to any one who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

(*2*) Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death.

Rights of transferee of a partner's interest.

29. (*1*) A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of the business, or to require accounts,

or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.

(*2*) If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

Minors admitted to the benefits of partnership.

30. (*1*) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

(*2*) Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm.

(*3*) Such minor's share is liable for the acts of the firm, but the minor is not personally liable for any such act.

(*4*) Such minor may not sue the partners for an account or payment of his share of the property or profits of the firm, save when severing his connection with the firm, and in such case the amount of his share shall be determined by a valuation made as far as possible in accordance with the rules contained in section 48:

Provided that all the partners acting together or any partner entitled to dissolve the firm upon notice to other partners may elect in such suit to dissolve the firm, and thereupon the Court shall proceed with the suit as one for dissolution and for settling accounts between the partners, and the amount of the share of the minor shall be determined along with the shares of the partners.

(*5*) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm:

Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months.

(*6*) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the persons asserting that fact.

(*7*) Where such person becomes a partner,—

(*a*) his rights and liabilities as a minor continue up to the date on which he becomes a partner, but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership, and

(*b*) his share in the property and profits of the firm shall be the share to which he was entitled as a minor.

(*8*) Where such person elects not to become a partner,—

(*a*) his rights and liabilities shall continue to be those of a minor under this section up to the date on which he gives public notice,

(*b*) his share shall not be liable for any acts of the firm done after the date of the notice, and

(*c*) he shall be entitled to sue the partners for his share of the property and profits in accordance with sub-section (*4*).

(*9*) Nothing in sub-sections (*7*) and (*8*) shall affect the provisions of section 28.

CHAPTER V.

INCOMING AND OUTGOING PARTNERS.

Introduction of a partner.

31. (*1*) Subject to contract between the partners and to the provisions of section 30, no person shall be introduced as a partner into a firm without the consent of all the existing partners.

(*2*) Subject to the provisions of section 30, a person who is introduced as a partner into a firm does not thereby become liable for any act of the firm done before he became a partner.

Retirement of a partner.

32. (*1*) A partner may retire—

(*a*) with the consent of all the other partners,

(*b*) in accordance with an express agreement by the partners, or

(*c*) where the partnership is at will, by giving notice in writing to all the other partners of his intention to retire.

(*2*) A retiring partner may be discharged from any liability to any third party for acts of the firm done before his retirement by an agreement made by him with such third party and the partners of the reconstituted firm, and such agreement may be implied by a course of dealing between such third party and the reconstituted firm after he had knowledge of the retirement.

(*3*) Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any

act done by any of them which would have been an act of the firm if done before the retirement, until public notice is given of the retirement:

Provided that a retired partner is not liable to any third party who deals with the firm without knowing that he was a partner.

(*4*) Notices under sub-section (*3*) may be given by the retired partner or by any partner of the reconstituted firm.

Expulsion of a partner.

33. (*1*) A partner may not be expelled from a firm by any majority of the partners, save in the exercise in good faith of powers conferred by contract between the partners.

(*2*) The provisions of sub-sections (*2*), (*3*) and (*4*) of section 32 shall apply to an expelled partner as if he were a retired partner.

Insolvency of a partner.

34. (*1*) Where a partner in a firm is adjudicated an insolvent he ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved.

(*2*) Where under a contract between the partners the firm is not dissolved by the adjudication of a partner as an insolvent, the estate of a partner so adjudicated is not liable for any act of the firm and the firm is not liable for any act of the insolvent, done after the date on which the order of adjudication is made.

Liability of estate of deceased partner.

35. Where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death.

Rights of outgoing partner to carry on competing business.

36. (*1*) An outgoing partner may carry on a business competing with that of the firm and he may advertise such business, but, subject to contract to the contrary, he may not—

(*a*) use the firm name,

(*b*) represent himself as carrying on the business of the firm, or

(*c*) solicit the custom of persons who were dealing with the firm before he ceased to be a partner.

Agreements in restraint of trade.

(*2*) A partner may make an agreement with his partners that on ceasing to be a partner he will not carry on any business similar to that of the firm within a specified period or within specified local limits; and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. IX of 1872.

Right of outgoing partner in certain cases to share subsequent profits.

37. Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with the property of the firm without any final settlement of accounts as between them and the outgoing partner or his estate, then, in the absence of a contract to the contrary, the outgoing partner or his

estate is entitled at the option of himself or his representatives to such share of the profits made since he ceased to be a partner as may be attributable to the use of his share of the property of the firm or to interest at the rate of six per cent. per annum on the amount of his share in the property of the firm:

Provided that where by contract between the partners an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

Revocation of continuing guarantee by change in firm.

38. A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

CHAPTER VI.

Dissolution of a firm.

Dissolution of a firm.

39. The dissolution of partnership between all the partners of a firm is called the " dissolution of the firm ".

Dissolution by agreement.

40. A firm may be dissolved with the consent of all the partners or in accordance with a contract between the partners.

Compulsory dissolution.

41. A firm is dissolved—

(*a*) by the adjudication of all the partners or of all the partners but one as insolvent, or

(*b*) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership:

Provided that, where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful adventures and undertakings.

Dissolution on the happening of certain contingencies.

42. Subject to contract between the partners a firm is dissolved—

(*a*) if constituted for a fixed term, by the expiry of that term;

(*b*) if constituted to carry out one or more advantures or undertakings, by the completion thereof;

(*c*) by the death of a partner; and

(*d*) by the adjudication of a partner as an insolvent.

Dissolution by notice of partnership at will.

43. (*1*) Where the partnership is at will, the firm may be dissolved by any partner giving notice in writing to all the other partners of his intention to dissolve the firm.

(*2*) The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.

Dissolution by the Court.

44. At the suit of a partner, the Court may dissolve a firm on any of the following grounds, namely:—

(*a*) that a partner has become of unsound mind, in which case the suit may be brought as well by the next friend of the partner who has become of unsound mind as by any other partner;

(*b*) that a partner, other than the partner suing, has become in any way permanently incapable of performing his duties as partner;

(*c*) that a partner, other than the partner suing, is guilty of conduct which is likely to affect prejudicially the carrying on of the business, regard being had to the nature of the business;

(*d*) that a partner, other than the partner suing, wilfully or persistently commits breach of agreements relating to the management of the affairs of the firm or the conduct of its business, or otherwise so conducts himself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with him;

(*e*) that a partner, other than the partner suing, has in any way transferred the whole of his interest in the firm to a third party, or has allowed his share to be charged under the provisions of rule 49 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, or has allowed it to be sold in the recovery of arrears of land-revenue or of any dues recoverable as arrears of land-revenue due by the partner; V of 1908.

(*f*) that the business of the firm cannot be carried on save at a loss; or

(*g*) on any other ground which renders it just and equitable that the firm should be dissolved.

Liability for acts of partners done after dissolution.

45. (*1*) Notwithstanding the dissolution of a firm, the partners continue to be liable as such to third parties for any act done by any of them which would have been an act of the firm if done before the dissolution, until public notice is given of the dissolution:

Provided that the estate of a partner who dies, or who is adjudicated an insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable under this section for acts done after the date on which he ceases to be a partner.

(*2*) Notices under sub-section (*1*) may be given by any partner.

Right of partners to have business wound up after dissolution.

46. On the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the firm, and to have the surplus distributed among the partners or their representatives according to their rights.

Continuing authority of partners for purposes of winding up.

47. After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners, continue notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the firm and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise:

Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent; but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent.

Mode of settlement of accounts between partners.

48. In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed:—

(*a*) Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits.

(*b*) The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order:—

(*i*) in paying the debts of the firm to third parties;

(*ii*) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital;

(*iii*) in paying to each partner rateably what is due to him on amount of capital; and

(*iv*) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.

Payment of firm debts and of separate debts.

49. Where there are joint debts due from the firm, and also separate debts due from any partner, the property of the firm shall be applied in the first instance in payment of the debts of the firm, and, if there is any surplus, then the share of each partner shall be applied in payment of his separate debts or paid to him. The separate property of any partner shall be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Personal profits earned after dissolution.

50. Subject to contract between the partners, the provisions of clause (*a*) of section 16 shall apply to transactions by any surviving partner or by the representatives of a deceased partner, undertaken after the firm is dissolved on account of the death of a partner and before its affairs have been completely wound up:

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Return of premium on premature dissolution.

51. Where a partner has paid a premium on entering into partnership for a fixed term, and the firm is dissolved before the expiration of that term otherwise than by the death of a partner, he shall be entitled to repayment of the premium or of such part thereof as may be reasonable, regard being had to the terms upon which he became a partner and to the length of time during which he was a partner, unless—

(*a*) the dissolution is mainly due to his own misconduct, or

(*b*) the dissolution is in pursuance of an agreement containing no provision for the return of the premium or any part of it.

Rights where partnership contract is rescinded for fraud or mi-represen-tation.

52. Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(*a*) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him;

(*b*) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm; and

(*c*) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm.

Right to restrain from use of firm name or firm property.

53. After a firm is dissolved, every partner or his representative may, in the absence of a contract between the partners to the contrary, restrain any other partner or his representative from carrying on a similar business in the firm name or from using any of the property of the firm for his own benefit, until the affairs of the firm have been completely wound up:

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Agreements in restraint of trade.

54. Partners may, upon or in anticipation of the dissolution of the firm, make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits; and notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable.

IX of 1872.

Sale of good will after dissolution.

55. (*1*) In settling the accounts of a firm after dissolution, the goodwill shall, subject to contract between the partners, be included in the assets, and it may be sold either separately or along with other property of the firm.

Rights of buyer and seller of goodwill.

(*2*) Where the goodwill of a firm is sold after dissolution, a partner may carry on a business competing with that of the buyer and he may advertise such business, but, subject to agreement between him and the buyer, he may not—

(*a*) use the firm name,

(*b*) represent himself as carrying on the business of the firm, or

(*c*) solicit the custom of persons who were dealing with the firm before its dissolution.

Agreements in restraint of trade.

(*3*) Any partner may, upon the sale of the goodwill of a firm, make an agreement with the buyer that such partner will not carry on any business similar to that of the firm within a specified period or within specified local limits, and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable.

IX of 1872.

CHAPTER VII.

REGISTRATION OF FIRMS.

Power to exempt from application of this Chapter.

56. The Governor General in Council may, by notification[1] in the Gazette of India, direct that the provisions of this Chapter shall not apply to any province or to any part thereof specified in the notification.

Appointment of Registrars.

57. (*1*) The Local Government may appoint Registrars of Firms for the purposes of this Act, and may define the areas within which they shall exercise their powers and perform their duties.

(*2*) Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

[1] For Notification directing that the provisions of Chapter VII shall not apply to any part of the province of Burma other than the towns of Rangoon, Akyab, Bassein, Moulmein and Mandalay, *see* Gazette of India, 1932, Pt. I, p. 1145.

Application for registration.

58. (*1*) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating—

(*a*) the firm name,

(*b*) the place or principal place of business of the firm,

(*c*) the names of any other places where the firm carries on business,

(*d*) the date when each partner joined the firm,

(*e*) the names in full and permanent addresses of the partners, and

(*f*) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

(*2*) Each person signing the statement shall also verify it in the manner prescribed.

(*3*) A firm name shall not contain any of the following words, namely:—

"Crown", "Emperor", "Empress", "Empire", "Imperial", "King", "Queen", "Royal", or words expressing or implying the sanction, approval or patronage of the Crown or the Government of India or a Local Government, except when the Governor General in Council signifies his consent to the use of such words as part of the firm name by order in writing under the hand of one of the Secretaries of the Government of India.

Registration.

59. When the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement.

Recording of alterations in firm name and principal place of business.

60. (*1*) When an alteration is made in the firm name or in the location of the principal place of business of a registered firm, a statement may be sent to the Registrar accompanied by the prescribed fee, specifying the alteration, and signed and verified in the manner required under section 58.

(*2*) When the Registrar is satisfied that the provisions of sub-section (*1*) have been duly complied with, he shall amend the entry relating to the firm in the Register of Firms in accordance with the statement, and shall file it along with the statement relating to the firm filed under section 59.

Noting of closing and opening of branches.

61. When a registered firm discontinues business at any place or begins to carry on business at any place, such place not being its principal place of business, any partner or agent of the firm may send intimation thereof to the Registrar, who shall make a note of such intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation along with the statement relating to the firm filed under section 59.

Noting of changes in names and addresses of partners.

62. When any partner in a registered firm alters his name or permanent address, an intimation of the alteration may be sent by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

Recording of changes in and dissolution of a firm.

63. (*1*) When a change occurs in the constitution of a registered firm any incoming, continuing or outgoing partner, and when a registered firm is dissolved any person who was a partner immediately before the dissolution, or the agent of any such partner or person specially authorised in this behalf, may give notice to the Registrar of such change or dissolution, specifying the date thereof; and the Registrar shall make a record of the notice in the entry relating to the firm in the Register of Firms, and shall file the notice along with the statement relating to the firm filed under section 59.

Recording of withdrawal of a minor.

(*2*) When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, may give notice to the Registrar that he has or has not become a partner, and the Registrar shall deal with the notice in the manner provided in sub-section (*1*).

Rectification of mistakes.

64. (*1*) The Registrar shall have power at all times to rectify any mistake in order to bring the entry in the Register of Firms relating to any firm into conformity with the documents relating to that firm filed under this Chapter.

(*2*) On application made by all the parties who have signed any document relating to a firm filed under this Chapter, the Registrar may rectify any mistake in such document or in the record or note thereof made in the Register of Firms.

Amendment of Register by order of Court.

65. A Court deciding any matter relating to a registered firm may direct that the Registrar shall make any amendment in the entry in the Register of Firms relating to such firm which is consequential upon its decision; and the Registrar shall amend the entry accordingly.

Inspection of Register and filed documents.

66. (*1*) The Register of Firms shall be open to inspection by any person on payment of such fee as may be prescribed.

(*2*) All statements, notices and intimations filed under this Chapter shall be open to inspection, subject to such conditions and on payment of such fee as may be prescribed.

Grant of copies.

67. The Registrar shall on application furnish to any person, on payment of such fee as may be prescribed, a copy, certified under his hand, of any entry or portion thereof in the Register of Firms.

Rules of evidence.

68. (*1*) Any statement, intimation or notice recorded or noted in the Register of Firms shall, as against any person by whom or on whose behalf such statement, intimation or notice was signed, be conclusive proof of any fact therein stated.

(*2*) A certified copy of an entry relating to a firm in the Register of Firms may be produced in proof of the fact of the registration of such firm, and of the contents of any statement, intimation or notice recorded or noted therein.

Effect of non-registration.

69. (*1*) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm.

(*2*) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

(*3*) The provisions of sub-sections (*1*) and (*2*) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect—

(*a*) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm, or

(*b*) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, to realise the property of an insolvent partner. II of 1909. V of 1920.

(*4*) This section shall not apply—

(*a*) to firms or to partners in firms which have no place of business in British India, or whose places of business in British India are situated in areas to which, by notification under section 55, this Chapter does not apply, or

(*b*) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a

kind specified in section 19 of the Presidency Small Cause Courts Act, 1882, or outside the Presidency-towns is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887, or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim.

XV of 1882.

IX of 1887.

Penalty for furnishing false particulars.

70. Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

Power to make rules.

71. (*1*) The Governor General in Council may make rules prescribing the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for the inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms:

Provided that such fees shall not exceed the maximum fees specified in Schedule I.

(*2*) The Local Government may make rules—

(*a*) prescribing the form of statement submitted under section 58, and of the verification thereof;

(*b*) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form, and prescribing the form thereof;

(*c*) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;

(*d*) regulating the procedure of the Registrar when disputes arise;

(*e*) regulating the filing of documents received by the Registrar;

(*f*) prescribing conditions for the inspection of original documents;

(*g*) regulating the grant of copies;

(*h*) regulating the elimination of registers and documents;

(*i*) providing for the maintenance and form of an index to the Register of Firms; and

(*j*) generally, to carry out the purposes of this Chapter.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

CHAPTER VIII.

SUPPLEMENTAL.

Mode of giving public notice.

72. A public notice under this Act is given—

(*a*) where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the local official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business, and

(*b*) in any other case, by publication in the local official Gazette and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

Repeals.

73. The enactments mentioned in Schedule II are hereby repealed to the extent specified in the fourth column thereof.

Savings.

74. Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability, or anything done or suffered before the commencement of this Act, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to partnership not expressly repealed by this Act, or

(*e*) any rule of insolvency relating to partnership, or

(*f*) any rule of law not inconsistent with this Act.

SCHEDULE I.

MAXIMUM FEES.

[*See* sub-section (*1*) of section 71.]

Document or act in respect of which the fee is payable.	Maximum fee.
Statement under section 58	Three rupees.
Statement under section 60	One rupee.
Intimation under section 61	One rupee.
Intimation under section 62	One rupee.
Notice under section 63	One rupee.
Application under section 64	One rupee.
Inspection of the Register of Firms under sub-section (*1*) of section 66.	Eight annas for inspecting one volume of the Register.
Inspection of documents relating to a firm under sub-section (*2*) of section 66.	Eight annas for the inspection of all documents relating to one firm.
Copies from the Register of Firms	Four annas for each hundred words or part thereof.

SCHEDULE II.

ENACTMENTS REPEALED.

(*See* section 73.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1872	IX	The Indian Contract Act, 1872	Exceptions 2 & 3 to section 27.
			The whole of Chapter XI.
1920	Burma Act VIII	The Burma Registration of Business Names Act, 1920.	The whole.

ACT No. X OF 1932.[1]

[*8th April, 1932.*]

An Act further to amend the Code of Civil Procedure, 1908, for a certain purpose.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:— V of 1908.

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1932. Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 97.

Amendment of section 78, Act V of 1908.

2. In section 78 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), V of 1908.—

(*a*) before the words " The provisions " the words " Subject to such conditions and limitations as may be prescribed," shall be inserted;

(*b*) after the words " issued by " the words " or at the instance of " shall be inserted; and

(*c*) in clause (*c*), the words " for the time being in alliance with His Majesty " shall be omitted.

Insertion of new rules in Order XXVI of the First Schedule, Act V of 1908.

3. In Order XXVI of the First Schedule to the said Code, the following heading and rules shall be added, namely:—

" *Commissions issued at the instance of Foreign Tribunals.*

19. (*1*) If a High Court is satisfied—

(*a*) that a foreign court situated in a foreign country wishes to obtain the evidence of a witness in any proceeding before it,

(*b*) that the proceeding is of a civil nature, and

(*c*) that the witness is residing within the limits of the High Court's appellate jurisdiction,

it may, subject to the provisions of rule 20, issue a commission for the examination of such witness.

(*2*) Evidence may be given of the matters specified in clauses (*a*), (*b*) and (*c*) of sub-rule (*1*)—

(*a*) by a certificate signed by the consular officer of the foreign country of the highest rank in India and transmitted to the High Court through the Governor General in Council, or

(*b*) by a letter of request issued by the foreign court and transmitted to the High Court through the Governor General in Council, or

(*c*) by a letter of request issued by the foreign court and produced before the High Court by a party to the proceeding.

20. The High Court may issue a commission under rule 19—

(*a*) upon application by a party to the proceeding before the foreign court, or

(*b*) upon an application by a law officer of the Local Government acting under instructions from the Local Government.

21. A commission under rule 19 may be issued to any court within the local limits of whose jurisdiction the witness resides, or, where the High Court is established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, and the witness resides within the

local limits of its ordinary original civil jurisdiction, to any person whom the court thinks fit to execute the commission.

22. The provisions of rules 6, 15, 16, 17 and 18 of this Order in so far as they are applicable shall apply to the issue, execution and return of such commissions, and when any such commission has been duly executed it shall be returned, together with the evidence taken under it, to the High Court, which shall forward it to the Governor General in Council, along with the letter of request for transmission to the foreign court."

ACT No. XI OF 1932.[1]

[*8th April, 1932.*]

An Act to validate certain suits relating to public matters.

WHEREAS it is expedient to validate certain suits relating to public matters which may be or have been held to be invalid by reason of the previous sanction of the Local Government in respect thereof not having been obtained as required by section 93 of the Code of Civil Procedure, 1908; It is hereby enacted as follows:—

V of 1908.

Short title and extent.

1. (*1*) This Act may be called the Public Suits Validation Act, 1932.

(*2*) It extends to all parts of British India to which sections 91, 92 and 93 of the Code of Civil Procedure, 1908, extend.

V of 1908.

Validation of certain pending public suits.

2. Where a suit relating to any of the public matters specified in sections 91 and 92 of the Code of Civil Procedure, 1908, is pending at the commencement of this Act, the institution of such suit shall not be deemed to be invalid on the ground that the previous sanction of the Local Government in respect of such suit has not been obtained as required by section 93 of that Code.

V of 1908.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

Restoration of certain dismissed public suits.

3. Where any suit relating to any such public matter has, after the 30th day of November, 1931, and before the commencement of this Act, been dismissed by a Court of first instance solely on the ground that the sanction of the Local Government in respect of such suit has not been obtained as required by section 93 of the Code of Civil Procedure, 1908, the Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the suit.

V of 1908.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 135.

Retrial of certain appeals relating to public suits.

4. Where, in any appeal arising from a suit relating to any such public matter, a decree has been passed after the 30th day of November, 1931, and before the commencement of this Act, dismissing the appeal or dismissing the suit from which the appeal arose, solely on the ground that the previous sanction of the Local Government in respect of the suit had not been obtained as required by section 93 of the Code of Civil Procedure, 1908, the Appellate Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the appeal. V of 1908.

ACT No. XII OF 1932.[1]

[*8th April, 1932.*]

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States.

WHEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Foreign Relations Act, 1932.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Power of Governor General in Council to prosecute in certain cases of defamation.

2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against the consort or son or principal Minister of such Ruler, the Governor General in Council may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898, any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint. XLV of 1860. V of 1898.

Explanation.—For the purposes of this Act Aden is not included in India.

Power to forfeit certain publications or to detain them in the course of transmission through post.

3. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining India or of the consort or son or principal Minister V of 1898. VI of 1898

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 108; for Report of Select Committee, *see ibid*, 1932, Pt. V, p. 99.

of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections:

Provided that for the purposes of this section the said provisions shall be construed as if for the words " Local Government " wherever they occur, the words " Governor General in Council " were substituted.

Proof of status of persons defamed.

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before a High Court arising out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate under the hand of a Secretary to the Government of India that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact.

ACT No. XIII OF 1932.[1]

[*8th April, 1932.*]

An Act to provide for the fostering and development of the sugar industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, 1946, by determining the extent of the protection to be conferred up to the 31st day of March, 1938, and by making provision for the determination of the extent of the protection to be conferred for the remainder of the period; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Sugar Industry (Protection) Act, 1932.

Amendment of Schedule II, Act VIII of 1894.

VIII of 1894.

2. (*1*) In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act.

(*2*) The amendments made by sub-section (*1*) shall have effect up to the 31st day of March, 1938.

Statutory inquiry.

3. The Governor General in Council shall cause to be made, by such persons as he may appoint in this behalf, an inquiry to ascertain if the protection of the sugar industry during the period from the 31st day of March, 1938, to the 31st day of March, 1946, should be continued to the

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 43; for Report of Select Committee, *see ibid*, p. 91.

extent conferred by this Act, or to a greater or lesser extent, and shall, not later than the 31st day of March, 1938, lay his proposals in this behalf before the Indian Legislature.

Power to increase duty imposed by section 2.

4. If the Governor General in Council is satisfied, after such inquiry as he thinks fit, that sugar not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industry by the duties imposed by section 2, he may, by notification in the Gazette of India, increase such duty to such extent as he thinks fit.

Power to make rules requiring returns.

5. The Governor General in Council may, by notification in the Gazette of India, make rules requiring the owners of sugar factories in British India to make such returns relating to the production of sugar in their factories as the Governor General in Council may consider to be desirable, prescribing the form of such returns, the dates of their submission and the authority to which they shall be submitted.

Power to make rules requiring notices of prices of sugar-cane to be posted up in sugar factories.

6. (*1*) The Local Government may, by notification in the local official Gazette, make rules requiring that there shall be affixed, in conspicuous places near the entrances to sugar factories, notices for the information of sellers of sugar-cane, and such rules may prescribe the form and languages of such notices, and the particulars to be included therein relating to prices at which sugar-cane is being bought at the factory.

(*2*) In making such rules the Local Government may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

Explanation.—In this section and in section 5 " factory " has the meaning assigned to it in clause (*3*) of section 2 of the Indian Factories Act, 1911. XII of 1911.

THE SCHEDULE.

(*See* section 2.)

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

1. In Part II,—

(*a*) for the heading " SUGAR " and Item No. 34, the following heading and item shall be substituted, namely:—

	" OTHER FOOD AND DRINK.		
34	MOLASSES	*Ad valorem* . . .	25 per cent.";

(*b*) the heading " SACCHARINE " above Item No. 34-A shall be omitted; and

(*c*) the heading " OTHER FOOD AND DRINK " above Item No. 35 shall be omitted.

2. In Part VII, after Item No. 156, the following heading and item shall be inserted, namely:—

" SUGAR.

			Rs. A.
157	SUGAR and sugar-candy, excluding confectionery . .	Cwt.	7 4"

3. Item No. 156A shall be re-numbered as Item No. 158.

4. In Part VII under the head " MISCELLANEOUS ",—

(*a*) in the first column, the figures " 157 ", " 158 " and " 159 " shall be omitted;

(*b*) the heading " MATCHES, UNDIPPED SPLINTS AND VENEERS " shall be numbered as Item No. 159; and

(*c*) in the second column, the entries relating to " MATCHES ", " UNDIPPED SPLINTS " and " VENEERS " shall be lettered, respectively, as sub-items (*a*), (*b*) and (*c*) of Item No. 159.

THE INDIAN AIR FORCE ACT, 1932.

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THE SCHEDULE.

ACT No. XIV OF 1932.[1]

[*8th April, 1932.*]

An Act to provide for the administration and discipline of the Indian Air Force.

WHEREAS it is intended to establish an Indian Air Force;

And whereas it is expedient to provide for the administration and discipline of that Force and for purposes connected therewith;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Indian Air Force Act, 1932.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

Persons subject to this Act.

2. (*1*) The following persons shall be subject to this Act, namely:—

(*a*) officers and warrant officers of the Indian Air Force;

(*b*) persons enrolled under this Act;

(*c*) persons not otherwise subject to military or air force law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the Indian Air Force.

(*2*) Every person who has become subject to this Act under sub-section (*1*), clause (*a*) or (*b*), shall remain so subject until duly discharged or dismissed.

Special provision as to rank in certain cases.

3. (*1*) The Governor General in Council may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (*1*), clause (*c*), shall be so subject as officers, warrant officers or non-commissioned officers, and may authorise any officer to give a like direction with respect to any such person and to cancel such direction.

(*2*) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

Commanding officer of certain persons.

4. Every person subject to this Act under section 2, sub-section (*1*), clause (*c*), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, unit or detachment (if any) to which

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 38; for Report of Select Committee, *see ibid*, p. 103.

[2] This Act came into force on the 8th October, 1932; *see* Notification No. 564, dated 8th October, 1932, Gazette of India, 1932, Pt. I, p. 1149.

he is attached, and if he is not attached to any corps, unit or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force:

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

Officers to exercise powers in certain cases.

5. (*1*) Whenever persons subject to this Act are serving whether within or without India under an officer not subject to this Act, the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding units, shall, as regards such persons, be exercised.

(*2*) The Governor General in Council may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

(*1*) " officer of the Indian Air Force " means a person commissioned, gazetted or in pay as an officer of the Indian Air Force;

(*2*) " warrant officer " means a person appointed, gazetted or in pay as a warrant officer in the Indian Air Force;

(*3*) " non-commissioned officer " means a person attested under this Act holding a non-commissioned rank in the Indian Air Force, and includes an acting non-commissioned officer;

(*4*) " officer " means an officer of any of His Majesty's naval, military or air forces, but does not include a warrant officer or non-commissioned officer;

(*5*) " airman " means any person subject to this Act other than an officer;

(*6*) " commanding officer ", used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached;

(*7*) " superior officer ", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer; and, as regards persons placed under his orders, an officer, a warrant officer or non-commissioned officer of any of His Majesty's naval, military or air forces;

(*8*) "corps" means any body of the Indian Air Force which is prescribed as a corps for the purposes of all or any of the provisions of this Act;

(*9*) "unit" means any body of the Indian Air Force which is prescribed as a unit for the purposes of all or any of the provisions of this Act;

(*10*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to naval, military or air force law to act;

(*11*) "active service", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in warlike operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country, and includes, in respect of a person subject to this Act attached to or forming part of a force which is about to be or has recently been on such active service, such time as the Governor General in Council may, by notification in the Gazette of India, declare to be active service in respect of such force;

(*12*) "air force custody" means the arrest or confinement of a person according to the usages of His Majesty's military and air forces, and includes military custody;

(*13*) "air force reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward;

(*14*) "court-martial" means a court-martial held under this Act;

(*15*) "criminal court" means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor General in Council;

(*16*) "offence" means any act or omission made punishable by any law for the time being in force;

(*17*) "air force offence" means any act or omission made punishable by this Act;

(*18*) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court;

(*19*) "His Majesty's naval forces" include the Indian Marine Service;

(*20*) " notification " means a notification published in the Gazette of India;

(*21*) " prescribed " means prescribed by rules made under this Act; and

(*22*) all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

XLV of 1860.

CHAPTER II.

Enrolment, Attestation, Dismissal, Discharge and Reduction.

Procedure before enrolling officer.

7. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Enrolment.

8. If, after complying with the provisions of section 7, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall cause the person to sign the enrolment paper, and the person shall be then deemed to be enrolled.

Conditions for enrolment.

9. The enrolling officer shall not cause any person to sign the enrolment paper unless he is satisfied that such a person is a subject of His Majesty or of a Prince or Chief in India, and—

(*a*) is of unmixed Indian descent, or

(*b*) if he is of mixed Indian and non-Indian descent, is domiciled in India, or

(*c*) if he is of unmixed non-Indian Asiatic descent, is domiciled in India and his father and grandfather were domiciled in India.

Presumption of enrolment in certain cases.

10. Every person who has for the space of six months been in the receipt of air force pay and been borne on the rolls of any unit shall be deemed to have been duly enrolled, notwithstanding any illegality or irregularity in his enrolment.

Persons to be attested.

11. The following persons shall be attested, namely:—

(*a*) all persons enrolled as combatants;

(*b*) all other enrolled persons prescribed by the Governor General in Council.

Mode of attestation.

12. (*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person.

(*2*) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, his heirs and successors, and that he will serve in the Indian Air Force and go wherever he is ordered by air, land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(*3*) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by his signature and by the signature of the officer administering the oath or affirmation.

Dismissal by Governor General in Council.

13. The Governor General in Council may at any time dismiss from the service any person subject to this Act.

Dismissal by the Air Officer Commanding or prescribed Officer.

14. The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time dismiss from the service any person subject to this Act other than an officer.

Discharge.

15. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

Certificate to person dismissed or discharged.

16. Any enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate setting forth—

(*a*) the authority dismissing or discharging him;

(*b*) the cause of his dismissal or discharge; and

(*c*) the full period of his service in the Indian Air Force.

Discharge and dismissal out of India.

17. (*1*) Any enrolled person who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person subject to this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed:

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.

Reduction.

18. (*1*) The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time reduce any warrant officer or any non-commissioned officer to a lower grade or to a lower rank or to the ranks, or any airman other than a warrant officer or non-commissioned officer to a lower class in the ranks.

(*2*) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

CHAPTER III.

Punishments and Penal Deductions.

Punishments.

19. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say,—

(*a*) death;

(*b*) imprisonment, which shall be of two degrees, namely:—

(i) long imprisonment, which shall be rigorous and for a term not less than three years and not exceeding fourteen years, and

(ii) short imprisonment, which may be rigorous or simple, for a term not exceeding two years;

(*c*) in the case of airmen, detention for a term not exceeding two years;

(*d*) dismissal from the service;

(*e*) in the case of officers and warrant officers, suspension from rank, pay and allowances for a period not exceeding two months;

(*f*) reduction, in the case of a warrant officer, or a non-commissioned officer, to a lower grade, or to a lower rank or to the ranks;

(*g*) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;

(*h*) in the case of officers, warrant officers and non-commissioned officers, reprimand or severe reprimand;

(*i*) forfeitures and stoppages as follows, namely:—

(i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;

(ii) forfeiture of any military or air-force decoration or military or air force reward;

(iii) forfeiture, in the case of a person sentenced to dismissal from the service, of all arrears of pay and allowances due to him at the time of such dismissal;

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;

(v) on active service, forfeiture of pay and allowances for a period not exceeding three months.

Power to award lower punishments.

20. Where in respect of any offence under this Act there is specified particular punishment, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

Field punishment.

21. (*1*) Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

(*2*) Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

Combination of punishments.

22. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (*d*), (*f*), (*h*) and (*i*) of section 19.

Reduction of non-commissioned officers and warrant officers to ranks.

23. A warrant officer or non-commissioned officer sentenced by court-martial to imprisonment, detention, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

Retention in the ranks of person con-

24. When any enrolled person on active service has been sentenced by court-martial to dismissal or to imprisonment, whether combined with

dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment, such service shall be reckoned as part of his term of imprisonment. victed on active service.

25. (*1*) The Governor General in Council may prescribe the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded. Minor punishments.

(*2*) Detention and, in the case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishments:

Provided that—

(*a*) the term of such detention or field punishment shall not exceed twenty-eight days; and

(*b*) detention or field punishment shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

(*3*) The provisions of sections 77, 78 and 79 shall apply to the proceedings of officers empowered to award minor punishments under this section as if such officers were courts-martial.

26. (*1*) The following penal deductions may be made from the pay and allowances of an officer of the Indian Air Force, that is to say,— Deductions from pay and allowances.

(*a*) all pay and allowances due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted to him, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Governor General in Council;

(*b*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence;

(*c*) any sum required to make good the pay of any officer or airman which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good any loss, damage or destruction of public or service property which, after due investigation, appears to the Governor General in Council to have been occasioned by any wrongful act or negligence on the part of the officer.

(2) The following penal deductions may be made from the pay and allowances of an airman, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment or detention awarded by a criminal court, a court-martial or an officer exercising authority under section 25, or of field punishment, awarded by a court-martial or such officer;

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment, detention or field punishment by an officer exercising authority under section 25;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be prescribed;

(*e*) all pay and allowances ordered by a court-martial to be suspended or forfeited;

(*f*) any sum ordered by a court-martial to be stopped;

(*g*) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, service necessaries, or military decoration, or to any buildings or property, as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 58 or an officer exercising authority under section 25:

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (*e*) to (*g*), both inclusive, shall not (except in the case of a person sentenced to dismissal) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (*a*) and (*b*)—

(*i*) no person shall be treated as absent, imprisoned, or detained, unless the absence, imprisonment, or detention has lasted

six hours or upwards, except where the absence prevented the absentee from fulfilling any air force duty which was thereby thrown on some other person;

(*ii*) a period of absence, imprisonment, or detention which commences before and ends after midnight may be reckoned as a day;

(*iii*) the number of days shall be reckoned as from the time when the absence, imprisonment, or detention commences; and

(*iv*) no period of less than twenty-four hours shall be reckoned as more than one day.

Deductions from public money other than pay.

27. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Remission of deductions.

28. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent and by such authority as may from time to time be prescribed.

Provision for dependants of prisoners of war.

29. In the case of all persons subject to this Act being prisoners of war, whose pay and allowances have been forfeited under section 26, but in respect of whom a remission has been made under section 28, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

Unauthorised deductions forbidden.

30. The pay of an officer or airman of the Indian Air Force shall be paid without any deduction other than the deductions authorised by this Act or by any other enactment for the time being in force or prescribed by the Governor General in Council.

CHAPTER IV.

Air Force Offences.

Service offences punishable with death.

31. Any person subject to this Act who—

(*a*) shamefully abandons or delivers up any garrison, fortress, post, or guard committed to his charge, or which it is his duty to defend, or

(*b*) shamefully casts away his arms, ammunition or tools in the presence of the enemy, or

(*c*) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy, or

(*d*) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or

(*e*) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or

(*f*) voluntarily does when on active service any act calculated to imperil the success of His Majesty's Forces or any part thereof, or

(*g*) treacherously or shamefully causes the capture or destruction by the enemy of any of His Majesty's aircraft, or

(*h*) treacherously gives any false air signal or alters or interferes with any air signal, or

(*i*) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect,

shall be punishable with death.

Service offences punishable with long imprisonment.

32. Any person subject to this Act who, on active service,—

(*a*) without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear, or

(*b*) without orders from his superior officer wilfully destroys or damages any property, or

(*c*) is taken prisoner by want of due precaution or through disobedience of orders or wilful neglect of duty, or, having been taken prisoner, fails to rejoin His Majesty's service when able to do so, or

(*d*) without due authority either holds correspondence with, or gives intelligence, or sends a flag of truce to the enemy, or

(*e*) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or

(*f*) in action, or previously to going into action, uses words calculated to create alarm or despondency, or

(*g*) negligently causes the capture or destruction by the enemy of any of His Majesty's aircraft, or

(*h*) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, negligently

or through other default fails to use his utmost exertions to carry such orders into effect, or

(*i*) misbehaves before the enemy in such manner as to show cowardice,

shall be punishable with long imprisonment.

Service offences punishable more severely if committed on active service.

33. (*1*) Any person subject to this Act who treacherously makes known the watchword to any person not entitled to receive it, or treacherously gives a watchword different from what he received, shall, if he commits the offence on active service, be punishable with death, and, if he commits the offence not on active service, with short imprisonment.

(*2*) Any person subject to this Act who—

(*a*) without due authority alters or interferes with any air signal, or

(*b*) forces a safeguard, or

(*c*) forces or strikes a sentinel, or

(*d*) breaks into any house or other place in search of plunder, or

(*e*) being an airman acting as sentinel, sleeps or is intoxicated, or

(*f*) without orders from his superior officer leaves his guard, piquet, patrol or post, or

(*g*) by discharging fire arms, making signals, using words, or by any means whatever, intentionally occasions false alarms, or

(*h*) being an airman acting as sentinel, leaves his post before he is regularly relieved,

shall, if he commits the offence on active service, be punishable with long imprisonment and, if he commits the offence not on active service, with short imprisonment.

Service offences punishable with short imprisonment.

34. Any person subject to this Act who—

(*a*) by discharging fire arms, making signals, using words, or by any means whatever, negligently occasions false alarms, or

(*b*) makes known the watchword to any person not entitled to receive it, or, without good and sufficient cause, gives a watchword different from what he received, or

(*c*) impedes the provost-marshal or any assistant provost-marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost-marshal, or, when called on, refuses to assist in the execution of his duty the provost-marshal, the assistant provost-marshal, or any such officer, non-commissioned officer or other person, or

(*d*) uses criminal force to or commits an assault on any person bringing provisions or supplies to the forces, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or

(*e*) irregularly detains or appropriates to his own unit or detachment any provisions or supplies proceeding to the forces, contrary to orders issued in that respect,

shall be punishable with short imprisonment.

Mutiny.

35. Any person subject to this Act who—

(*a*) begins, incites, causes or conspires with any other persons to cause any mutiny in any of His Majesty's naval, military or air forces, or

(*b*) joins in, or, being present, does not use his utmost endeavours to suppress, any such mutiny, or

(*c*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny, or of any such conspiracy, does not without delay give information thereof to his commanding or other superior officer,

shall be punishable with death.

Insubordination punishable with long imprisonment.

36. Any person subject to this Act who—

(*a*) uses criminal force to or assaults his superior officer, being in the execution of his office, or

(*b*) disobeys in such manner as to show wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office,

shall be punishable with long imprisonment.

Insubordination punishable more severely if committed on active service.

37. Any person subject to this Act who—

(*a*) uses criminal force to or assaults his superior officer, or

(*b*) uses threatening or insubordinate language to his superior officer, or

(*c*) disobeys any lawful command given by his superior officer,

shall, if he commits the offence on active service, be punishable with long imprisonment, and, if he commits the offence not on active service, with short imprisonment.

Insubordination punishable with short imprisonment.

38. Any person subject to this Act who—

(*a*) being concerned in any quarrel, affray or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or uses criminal force to or assaults any such officer, or

(*b*) uses criminal force to or assaults any person, whether subject to this Act or not, in whose custody he is placed, whether he is or is not his superior officer, or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge, or

(*d*) being an airman, breaks out of barracks, camp or quarters, or

(*e*) neglects to obey any general, local or other orders (not being orders in the nature of a rule or regulation published for the general information and guidance of the Indian Air Force),

shall be punishable with short imprisonment.

Desertion.

39. Any person subject to this Act who deserts or attempts to desert the service shall, if he commits the offence when on active service or under orders for active service, be punishable with long imprisonment, and, if he commits the offence under any other circumstances, with short imprisonment.

Fraudulent enlistment.

40. Any person subject to this Act who, when belonging to the Indian Air Force, without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist, enrol or enter, enrols himself, or enlists in or enters any other of His Majesty's air forces, or any of His Majesty's military or naval forces, or re-enrols himself in the Indian Air Force, shall be deemed to be guilty of fraudulent enlistment, and shall be punishable with short imprisonment.

Connivance at desertion.

41. Any person subject to this Act, who being cognisant of any desertion or intended desertion of a person subject to this Act, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended, shall be punishable with short imprisonment.

Absence from duty without leave.

42. Any person subject to this Act who—

(*a*) absents himself without leave, or

(*b*) fails to appear at the time fixed at a parade or place appointed for exercise or duty, or goes from thence without leave before he is relieved, or without necessity quits his duty or duties, or

(*c*) being an airman, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general, local or other order, without a pass or written leave from his superior officer, or

(*d*) being an airman, without leave from his superior officer, or without due cause, absents himself from any school when duly ordered to attend there,

shall be punishable with short imprisonment.

Scandalous conduct of officer.

43. Any officer or warrant officer subject to this Act who behaves in a manner unbecoming his position and character shall, notwithstanding anything contained in section 20, be dismissed from the service.

Scandalous conduct punishable with long imprisonment.

44. Any person subject to this Act who—

(*a*) steals any property of Government, or dishonestly misappropriates or converts to his own use any property of Government entrusted to him, or

(*b*) dishonestly receives or retains any property in respect of which an offence under clause (*a*) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, or

(*c*) wilfully destroys or damages any property of Government entrusted to him, or

(*d*) steals any property of any air force mess, band or institution, or of any person subject to this Act or serving with or attached to the Indian Air Force, or dishonestly misappropriates or converts to his own use any such property entrusted to him, or

(*e*) dishonestly receives or retains any property in respect of which an offence under clause (*d*) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted,

shall be punishable with long imprisonment.

Scandalous conduct punishable with short imprisonment.

45. Any person subject to this Act who—

(*a*) does any act, not otherwise specified in this Act, with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person, or

(*b*) malingers or feigns or produces disease or infirmity himself, or intentionally delays his cure or aggravates his disease or infirmity, or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, or

(*d*) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission,

shall be punishable with short imprisonment.

Intoxication.

46. Any person subject to this Act who is found in a state of intoxication, whether on duty or not on duty, shall be punishable, if an officer, with dismissal from the service, and, if an airman, with short imprisonment:

Provided that where the offence of being intoxicated is committed by an airman not on active service or on duty, the sentence imposed shall not exceed detention for a period of six months.

Permitting escape of prisoner.

47. Any person subject to this Act who—

(*a*) when in command of a guard, piquet, patrol or post, releases without proper authority, whether voluntarily or otherwise any person committed to his charge, or

(*b*) voluntarily or negligently allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall be punishable, if he has acted voluntarily, with long imprisonment, and, if he has not acted voluntarily, with short imprisonment.

Irregular keeping in custody.

48. Any person subject to this Act who—

(*a*) unnecessarily detains a person in arrest or confinement without bringing him to trial or fails to bring his case before the proper authority for investigation, or

(*b*) having committed a person to the custody of any officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to the officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, into whose custody the person is committed, an account in writing signed by himself of the offences with which the person so committed is charged, or

(*c*) being in command of the guard, does not as soon as he is relieved from his guard or duty, or if he is not sooner relieved, within twenty-four hours after a person is committed to his charge, give in writing to the officer to whom he may be ordered to report that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom he was charged, accompanied, if he has received the account as above in this section mentioned, by that account,

shall be punishable with short imprisonment.

Escape from custody.

49. Any person subject to this Act, who, being in lawful custody, escapes or attempts to escape, shall be punishable with short imprisonment.

Offences relating to property.

50. Any person subject to this Act who—

(*a*) commits extortion, or without proper authority exacts from any person carriage, porterage or provisions, or

(*b*) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property, or

(*c*) voluntarily or negligently kills, injures, makes away with, ill-treats or loses any animal used in the public service, or

(*d*) makes away with, or is concerned in making away with, any arms, ammunition, equipments, instruments, tools, clothing or service necessaries issued to him or required to be maintained by him, or

(*e*) loses by neglect anything mentioned in clause (*d*), or

(*f*) wilfully damages anything mentioned in clause (*d*) or any property belonging to Government, or to any air force mess, band or institution, or to any person subject to air force law, or serving with, or attached to the Indian Air Force, or

(*g*) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall be punishable with short imprisonment.

False accusations and offences relating to documents.

51. Any person subject to this Act who—

(*a*) makes a false accusation against any person subject to this Act, knowing such accusation to be false, or

(*b*) in making any complaint under section 120, knowingly makes any false statement affecting the character of any person subject to this Act, or knowingly and wilfully suppresses any material fact, or

(*c*) obtains or attempts to obtain for himself or for any other person any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any document or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement, or

(*d*) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the Indian Air Force, or who, wilfully or negligently, omits or refuses to make or send any return or report of the matters aforesaid,

shall be punishable with short imprisonment.

False answers on enrolment.

52. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer shall be punishable with short imprisonment.

Offences relating to courts-martial.

53. Any person subject to this Act who—

(*a*) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any document or other thing which he may have been duly warned and called upon to produce or deliver up, or

(*b*) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting, or

(*c*) having been duly sworn or affirmed before any court-martial or other court or officer authorised by this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true,

shall be punishable with short imprisonment.

Offences relating to aircraft.

54. Any person subject to this Act who—

(*a*) voluntarily or negligently damages, destroys, or loses any of His Majesty's aircraft or aircraft material, or

(*b*) is guilty of any act or omission likely to cause such damage, destruction or loss, or

(*c*) is guilty of any act or omission (whether voluntary or otherwise) which causes damage to or destruction of any public property by fire, or

(*d*) without lawful authority disposes of any of His Majesty's aircraft or aircraft material, or

(*e*) is guilty of any act or omission in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material which causes or is likely to cause loss of life or bodily injury to any person, or

(*f*) during a state of war voluntarily and without proper occasion or negligently causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any of His Majesty's aircraft,

shall be punishable, if he has acted voluntarily, with long imprisonment, and if he has not acted voluntarily, with short imprisonment.

Miscellaneous air force offences.

55. Any person subject to this Act who—

(*a*) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position, or

(*b*) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority, or

(*c*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person, or

(*d*) attempts to commit suicide and does any act towards the commission of such offence, or

(*e*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a sword, bludgeon or other offensive weapon, or

(*f*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service, or

(*g*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and air force discipline,

shall be punishable with short imprisonment.

Attempts.

56. Any person subject to this Act who attempts to commit an air force offence or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence.

Abetment.

57. Any person subject to this Act who abets the commission of any air force offence, or of any offence punishable under the Army Act, the Air Force Act or the Indian Army Act, 1911, such offence being of the same nature as any air force offence, shall be punishable with the punishment provided in this Act for such air force offence. VIII of 1911.

Civil offences.

58. (*1*) Any person subject to this Act who at any place in or beyond British India commits any civil offence shall be deemed to be guilty of

an air force offence, and, if charged therewith under this section, shall be liable to be tried by court-martial and to be punished as follows, that is to say:—

(*a*) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of British India; and

(*b*) in other cases, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and air force discipline:

Provided that a person subject to this Act who, at any place in British India or at any place in which the Governor General in Council exercises powers and jurisdiction by virtue of the Indian (Foreign Jurisdiction) Order in Council, 1902, and while not on active service, commits an offence of murder or culpable homicide against a person not subject to this Act or an offence of rape, shall not be deemed to be guilty of an air force offence and shall not be tried by court-martial.

(*2*) The powers of a court-martial to charge and to punish any person under this section shall not be affected by reason of the civil offence with which such person is charged being also an air force offence.

CHAPTER V.

Arrest and Proceedings before Trial.

Custody of offenders.

59. (*1*) Any person subject to this Act who is charged with an offence may be taken into air force custody.

(*2*) Any such person may be ordered into air force custody by any superior officer.

(*3*) The charge against every person taken into air force custody shall, without unnecessary delay, be investigated by the proper authority, and as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

Arrest by civil authorities.

60. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Capture of deserters.

61. (*1*) Whenever any person subject to this Act deserts, his commanding officer shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to air force custody.

(*2*) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

Inquiry on absence without leave.

62. (*1*) When any person subject to this Act has been absent without due authority from his duty for a period of twenty-one days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of the declaration.

(*2*) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

Provost-marshal.

63. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Air Officer Commanding His Majesty's Air Forces in India; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

Duties and powers.

64. The duties of a provost-marshal so appointed are to take charge of persons in air force custody, to preserve good order and discipline and to prevent breaches thereof by persons subject to this Act.

He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

CHAPTER VI.

CONSTITUTION, JURISDICTION AND POWERS OF COURTS-MARTIAL.

Kinds of courts-martial.

65. For the purposes of this Act there shall be three kinds of courts-martial, that is to say,—

(*1*) general courts-martial;

(*2*) district courts-martial; and

(*3*) field general courts-martial.

Power to convene general courts-martial.

66. A general court-martial may be convened by the Governor General in Council, or by any officer empowered in this behalf by warrant of the Governor General in Council.

Power to convene district courts-martial.

67. A district court-martial may be convened by any authority having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such authority.

Limitation of powers of convening authorities.

68. A warrant issued under section 66 or section 67 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Convening of field general courts-martial.

69. The following authorities shall have power to convene a field general court-martial, that is to say,—

(*a*) an authority empowered in this behalf by an order of the Governor General in Council;

(*b*) on active service, the commanding officer of the forces in the field, or any officer empowered by him in this behalf;

(*c*) the commanding officer of any detached portion of the Indian Air Force on active service, when, in his opinion, it is not practicable, with due regard to discipline or the exigencies of the service, that an offence should be tried by a general court-martial, and circumstances prevent a reference to higher authority.

Composition of general courts-martial.

70. A general court-martial shall consist of not less than five officers each of whom must have held a commission during not less than three whole years and of whom not less than four must be of a rank not below that of a flight lieutenant.

Composition of district courts-martial.

71. A district court-martial shall consist of not less than three officers.

Composition of field general court-martial.

72. A field general court-martial shall consist of not less than three officers.

Dissolution of courts-martial.

73. (*1*) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved.

(*2*) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction and powers of courts-martial generally.

74. Save as otherwise provided by or under this Act, courts-martial shall have—

(*a*) jurisdiction to try and to punish all air force offences, and all civil offences committed by persons subject to this Act;

(*b*) exclusive jurisdiction to try all air force offences which are not also civil offences; and

(*c*) exclusive power to award the punishments specified in this Act.

Jurisdiction and powers of general and field general courts-martial.

75. A general or field general court-martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorised by this Act.

Jurisdiction and powers of district courts-martial.

76. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

Prohibition of second trial.

77. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 25, he shall not be liable to be tried again for the same offence by a court-martial.

Limitation of trial.

78. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enlistment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enlistment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces.

Explanation.—For the purposes of this section " mutiny " means any of the offences specified in section 35.

Place of trial.

79. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Order in case of concurrent jurisdiction of criminal court and court-martial.

80. When a criminal court and a court-martial have each jurisdiction in respect of a civil offence, it shall be in the discretion of the prescribed air force authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in air force custody.

(Chapter VI.—Constitution, Jurisdiction and Powers of Courts-martial. Chapter VII.—Procedure of Courts-martial.)

Power of criminal court to require delivery of offender.

81. *(1)* When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any civil offence, it may, by written notice, require the prescribed air force authority at the option of such authority either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor General in Council.

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.

Trial by court-martial no bar to subsequent trial by criminal court.

X of 1897. V of 1898.

82. *(1)* Notwithstanding anything contained in section 26 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the air force punishment he may already have undergone.

CHAPTER VII.

Procedure of Courts-martial.

President.

83. At every court-martial the senior member shall sit as president.

Judge Advocate.

84. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a fit person appointed by the convening officer.

Challenges.

85. *(1)* At all trials by courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed

manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Voting of members.

86. *(1)* Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused:

Provided that no sentence of death shall be passed without the concurrence of two-thirds at the least of the members of the court.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

Oaths of president and members.

87. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate at the beginning of the trial.

Oaths of witnesses.

88. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

The summoning of witnesses and production of documents.

89. *(1)* The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to air force or military authority, the summons shall be sent to the officer commanding the corps, unit, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any document in the custody of the postal or telegraph authorities. I of 1872.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may

be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

Commissions to obtain evidence.

90. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any Presidency Magistrate, District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any prince or chief in India in which there is an official representing the British Indian Government, the commission may be issued to such official.

(4) The Magistrate or official to whom the commission is issued, or if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898.

V of 1898.

(5) Where the commission is issued to such official as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any official subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British consular officer, British Magistrate or other British official competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or official to whom the commission is issued shall examine the witness upon such interrogatories.

(*8*) The prosecutor and the accused person may appear before such Magistrate or official by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(*9*) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(*10*) On receipt of a commission and deposition returned under sub-section (*9*), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(*11*) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression "Judge Advocate General" means the Judge Advocate General in India and includes a Deputy Judge Advocate General.

Conviction of one offence permissible on charge of another.

91. (*1*) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(*2*) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(*3*) A person charged before a court-martial with using criminal force may be found guilty of assault.

(*4*) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(*5*) A person charged before a court-martial with any of the offences specified in clause (*a*), clause (*b*), clause (*d*) or clause (*e*) of section 44 may be found guilty of any other of these offences with which he might have been charged.

(*6*) A person charged before a court-martial with an offence punishable under section 58 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898, were applicable. V of 1898.

(*7*) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(*8*) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

I of 1872. **92.** The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a court-martial. General rule as to evidence.

93. A court-martial may take judicial notice of any matter within the general, naval, military or air force knowledge of the members. Judicial notice.

94. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil, military or air force service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown. Presumption as to signatures.

95. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper. Enrolment paper as evidence.

96. (*1*) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the Governor General in Council or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document. Presumption as to certain documents.

(*2*) An Army List, Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, unit, battalion, arm, branch or department of the service to which such officers or warrant officers belong.

(*3*) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(*4*) A copy of any record in any service book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal, Assistant provost-marshal or other officer, or any portion of His Majesty's Forces a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

Reference by accused to Government officer.

97. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the civil, military or air force service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

Evidence of previous convictions and service character.

98. (1) When any person subject to this Act has been convicted by a court-martial of any offence such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial established under this Act or any other enactment or by a criminal court, and may further inquire into and record the service character of such person.

(*2*) Evidence received under this section may be either oral or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or service character will be received.

Order for custody and disposal of property pending trial in certain cases.

99. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

CHAPTER VIII.

Confirmation, Revision, Pardon and Remission of Sentences.

Finding and sentence invalid without confirmation.

100. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Power to confirm finding and sentence of general court-martial.

101. The findings and sentences of general courts-martial may be confirmed by the Governor General in Council or by any officer empowered in this behalf by warrant of the Governor General in Council.

Power to confirm finding and sentence of district court-martial.

102. The findings and sentences of district courts-martial may be confirmed by any authority having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such authority.

Limitation of powers of confirming authorities.

103. A warrant issued under section 101 or section 102 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Confirmation of finding and sentence of field general court-martial.

104. (*1*) Save as provided in sub-sections (*2*) and (*3*), a finding and sentence of a field general court-martial shall not require to be confirmed, and may be carried out forthwith.

(*2*) The finding and sentence of a field general court-martial shall require to be confirmed—

(*a*) in the case of the trial of an officer,

(*b*) in the case of a sentence of death or of imprisonment for a term exceeding two years, and

(*c*) in any other case if so ordered by the convening authority.

(*3*) Such finding and sentence may be confirmed by the convening authority or, if the convening authority so directs, by an authority, superior to the convening authority.

Power of confirming authority to mitigate, remit or commute sentences.

105. Subject to such restrictions as may be contained in any warrant issued under section 101 or section 102, a confirming authority may, if it confirms the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 19.

Confirmation of finding and sentence on board ship.

106. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Revision of finding or sentence.

107. (*1*) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority; and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a district court-martial, of three officers.

Substitution of valid for invalid sentence.

108. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority which would have had power under section 110 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence:

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

Provision where accused is a lunatic.

109. (*1*) Whenever, in the course of a trial by court-martial, it appears to the court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged, but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall record a finding accordingly, and the president

of the court shall forthwith report the case to the confirming authority, or, in the case of a field general court-martial, to the prescribed officer.

(*2*) A confirming authority to whom a case is reported under sub-section (*1*) may, if it does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(*3*) A prescribed officer to whom a case is reported under sub-section (*1*) and a confirming authority confirming a finding in any case so reported to it shall order the accused person to be kept in custody in the prescribed manner, and, where the confirming authority is not itself the Governor General in Council, shall report the case for the orders of the Governor General in Council.

(*4*) On receipt of a report under sub-section (*1*) or sub-section (*3*), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(*5*) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(*a*) if such person is in custody under sub-section (*3*), on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained under sub-section (*4*), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

V of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a criminal court.

(*6*) A copy of every order made by the prescribed officer under sub-section (*5*) shall forthwith be sent to the Governor General in Council.

Pardons and remissions.

110. (*1*) When any person subject to this Act has been convicted by a court-martial of any offence, the Governor General in Council or the prescribed officer may—

(*a*) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act.

(*2*) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted

the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided that in the case of a person sentenced to imprisonment, such person shall undergo only the unexpired portion of his sentence.

(*3*) When under the provisions of section 23 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.

CHAPTER IX.

EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

Sentence of death.

111. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Commencement of sentence of imprisonment.

112. Whenever any person is sentenced under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president.

Execution of sentence of imprisonment.

113. Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant:

Provided that, in the case of a sentence of imprisonment for a period not exceeding three months, the confirming authority, or, in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in air force custody:

Provided further that on active service a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint.

Execution of sentence of imprisonment in special cases.

114. Whenever, in the opinion of the Air Officer Commanding His Majesty's Air Forces in India, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in

accordance with the provisions of section 113, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Execution of sentence of detention.

115. When any sentence of detention is passed under this Act, or when any sentence so passed is commuted to detention, the punishment shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody.

Communication of certain orders to civil prison officers.

116. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

Offenders sentenced to transportation how dealt with until transported.

117. Where a sentence of transportation is imposed by court-martial under section 58, the offender, until he is transported, shall be dealt with in the same manner as if he had been sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment.

Execution of sentence of fine.

118. When a sentence of fine is imposed by a court-martial under section 58 whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate.

V of 1898.

Order for disposal of property regarding which offence committed.

119. (*1*) After the conclusion of a trial before any court-martial, the court or the authority confirming its finding or sentence or any authority superior to such authority, or in the case of a finding or sentence which does not require confirmation, the officer commanding the unit within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon

cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

CHAPTER X.

SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

Complaints against superior officers and airmen.

120. (*1*) If an officer of the Indian Air Force thinks himself wronged by his commanding officer, or other superior officer, and on due application made to his commanding officer does not receive the redress to which he may consider himself entitled, he may complain to the Governor General in Council in order to obtain justice.

(*2*) If any airman thinks himself wronged in any matter by any officer other than the officer under whose command or orders he is serving, or by any airman, he may complain thereof to the officer under whose command or orders he is serving, and if he thinks himself wronged by the officer under whose command or orders he is serving, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the prescribed officer; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

Privileges of persons attending courts-martial.

121. (*1*) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(*2*) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

(*Chapter X.—Special Rules relating to Persons and Property.*)

Exemption from arrest for debt.

122. (*1*) No officer or person enrolled in the Indian Air Force shall be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(*2*) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(*3*) For the recovery of such costs no fee shall be payable to the court by the complainant.

Property exempted from attachment.

123. Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Application to reservists.

124. Every person belonging to the Indian Air Force Reserve shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 122 and 123 to a person subject to this Act.

Priority of hearing by courts of cases in which persons subject to this act are concerned.

125. (*1*) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(*2*) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(*3*) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(*4*) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such

person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(*5*) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a unit, whose decision shall be final.

Property of deceased persons and deserters.

126. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts:—

(*1*) The commanding officer of the unit to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(*2*) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper official of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(*3*) In the case of a deceased person whose representative is on the spot and has given security for the payment of the service or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (*1*) and (*2*) to that representative.

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the service and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (*1*) and from the amount of the deposit (if any) received under clause (*2*).

(*5*) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or, in the event of no claim to such surplus being established within twelve months after the death, be remitted to the prescribed person.

(*6*) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Meaning of deserter.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of twenty-one days and has not subsequently surrendered or been apprehended.

Disposal of certain property without production of probate, etc.

127. Property deliverable and money payable to the representative of a deceased person under section 126 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor of a deceased person against any person to whom such delivery or payment has been made.

Application to lunatics and persons missing on active service.

128. The provisions of section 126 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane or who, being on active service, is officially reported missing:

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (*2*) to (*5*), inclusive, of the said section, until one year has elapsed from the date of such report.

CHAPTER XI.

SUPPLEMENTAL.

Power to make rules.

129. (*1*) The Governor General in Council may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the discharge from the service of persons subject to this Act;

(*b*) the specification of the punishments which may be awarded as field punishments under sections 21 and 25;

(*c*) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;

(*d*) the convening and constituting of courts-martial;
(*e*) the adjournment, dissolution and sittings of courts-martial;
(*f*) the procedure to be observed in trials by courts-martial;
(*g*) the confirmation and revision of the findings and sentences of courts-martial;
(*h*) the carrying into effect sentences of courts-martial;
(*i*) the forms of orders to be made under the provisions of this Act relating to courts-martial and imprisonment;
(*j*) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 29, and the due carrying out of such decisions; and
(*k*) any matter in this Act directed to be prescribed.

(*3*) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

Amendment of certain enactments.

130. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

THE SCHEDULE.

AMENDMENTS.

(*See* section 130.)

Year.	No.	Short title.	Amendments.
1860 . .	XLV	The Indian Penal Code.	(1) In the Explanation to section 131, for the words "or the Air Force Act" the words "the Air Force Act, or the Indian Air Force Act, 1932" shall be substituted. (2) In section 139, for the words "or the Air Force Act" the words "the Air Force Act or the Indian Air Force Act, 1932" shall be substituted.
1881 . .	XI	The Municipal Taxation Act, 1881.	In clause (*a*) of section 3, for the words "or the Air Force Act" the words "the Air Force Act or the Indian Air Force Act, 1932" shall be substituted.
1899 . .	II	The Indian Stamp Act, 1899.	In Schedule I, in clause (*a*) of the Exemptions to Article 4, after the figures "1911" the words and figures, "or the Indian Air Force Act, 1932," shall be inserted.
1901 . .	II	The Indian Tolls (Army) Act, 1901.	In clause (*b*) of section 2, after the words "Air Force Act" the words ", the Indian Air Force" shall be inserted.

Year.	No.	Short title.	Amendments.
1912 . .	IV	The Indian Lunacy Act, 1912.	In section 12, for the words "or the Air Force Act" the words "the Air Force Act or the Indian Air Force Act, 1932" shall be substituted.
1925 . .	IV	The Indian Soldiers (Litigation) Act, 1925.	In clause (*b*) of section 2, after the figures "1911" the words and figures ", or the Indian Air Force Act, 1932" shall be inserted.

ACT No. XV OF 1932.[1]

[*8th April 1932.*].

An Act to provide funds to enable Government to continue wireless broadcasting in India, by increasing the import duties leviable on wireless reception apparatus.

WHEREAS it is expedient to provide funds to enable Government to continue wireless broadcasting in India, by increasing the import duties leviable on wireless reception apparatus; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Tariff (Wireless Broadcasting) Amendment Act, 1932.

Amendment of Schedule II, Act VIII of 1894.

VIII of 1894.

[2] **2.** In Schedule II to the Indian Tariff Act, 1894,—

(*a*) Item No. 43 shall be re-numbered as Item No. 42B; and

(*b*) after Item No. 42B, as so re-numbered, the following heading and item shall be inserted, namely:—

"HARDWARE, IMPLEMENTS AND INSTRUMENTS.

43	WIRELESS RECEPTION INSTRUMENTS AND APPARATUS, and component parts thereof, including all electric valves, amplifiers and loud-speakers which are not specially designed for purposes other than wireless reception or are not original parts of and imported along with instruments or apparatus so designed.	*Ad valorem* .	50 per cent."

Bar of operation of section 4, Indian Finance (Supplementary and Extending) Act, 1931.

[2] **3.** Notwithstanding anything contained in section 4 of the Indian Finance (Supplementary and Extending) Act, 1931, the additional duty of customs imposed by that section shall not be levied on wireless reception apparatus comprised in Item No. 43 of Schedule II to the Indian Tariff Act, 1894, as inserted by section 2 of this Act.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 124.

[2] This section came into effect on 12th March, 1932, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

ACT No. XVI OF 1932.[1]

[*30th September, 1932.*]

An Act further to amend the Indian Emigration Act, 1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian Emigration Act, 1922, for the purposes hereinafter appearing; It is hereby enacted as follows:— VII of 1922.

Short title.

1. This Act may be called the Indian Emigration (Amendment) Act, 1932.

Amendment of section 24, Act VII of 1922.

2. For clause (*b*) of sub-section (*2*) of section 24 of the Indian Emigration Act, 1922 (hereinafter referred to as the said Act), the following shall be substituted, namely:— VII of 1922.

"(*b*) the licensing, supervision and control of persons in British India engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged;".

Amendment of section 25, Act VII of 1922.

3. In section 25 of the said Act,—

(*a*) in clause (*b*) of sub-section (*2*), for the words "induces, or attempts to induce" the words "causes or assists or attempts to cause or assist" shall be substituted; and

(*b*) sub-section (*3*) shall be renumbered as sub-section (*4*), and the following sub-section shall be inserted as sub-section (*3*), namely:—

"(*3*) When in the course of any proceedings in connection with emigration in which a person licensed in accordance with rules framed under clause (*b*) of sub-section (*2*) of section 24 is concerned, a breach of the provisions of this Act or of the rules made under this Act is committed, such person shall be liable to the punishment provided by sub-section (*2*), unless he shows that he was not responsible for and could not have prevented the commission of the breach."

Amendment of section 30, Act VII of 1922.

4. In sub-section (*3*) of section 30 of the said Act, for the words "induces, or attempts to induce" the words "causes or assists or attempts to cause or assist" shall be substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 192.

ACT No. XVII OF 1932.[1]

[*30th September, 1932.*]

An Act further to amend the Cantonments Act, 1924, for a certain purpose.

WHEREAS it is expedient further to amend the Cantonments Act, II of 1924. 1924. in the manner and for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Cantonments (Amendment) Act, 1932.

Amendment of clause (ix), section 2, Act II of 1924. II of 1924. **2.** In clause (*ix*) of section 2 of the Cantonments Act, 1924, after the words " Officer Commanding the District ", where they occur for the first time, the words " or Officer Commanding-in-Chief, the Command " shall be inserted, and after the words " Officer Commanding the District ", where they occur for the second time, the words " and Officer Commanding-in-Chief, the Command " shall be added; and this insertion and addition shall be deemed to have been made on and to have effect from the 29th day of February, 1932.

ACT No. XVIII OF 1932.[2]

[*30th September, 1932.*]

An Act to amend the Ancient Monuments Preservation Act, 1904, for certain purposes.

WHEREAS it is expedient to amend the Ancient Monuments Preser- VII of 1904. vation Act, 1904, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Ancient Monuments Preservation (Amendment) Act, 1932.

Insertion of new section 10A in Act VII of 1904. VII of 1904. **2.** After section 10 of the Ancient Monuments Preservation Act, 1904 (hereinafter referred to as the said Act), the following section shall be inserted, namely:—

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 194.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 112; for Report of the Select Committee, *see ibid*, 1932, Pt. V, p. 163.

Power of Local Government to control mining, etc., near ancient monument.

"10A. (*1*) If the Local Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Local Government may, by notification in the local official Gazette, make rules—

(*a*) fixing the boundaries of the area to which the rules are to apply,

(*b*) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and

(*c*) prescribing the authority by which, and the terms on which, licences may be granted to carry on any of the said operations.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(*3*) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(*4*) If any owner or occupier of land included in a notification under sub-section (*1*) proves to the satisfaction of the Local Government that he has sustained loss by reason of such land being so included, the Local Government shall pay compensation in respect of such loss."

Substitution of new sections for section 20, Act VII of 1904.

3. For section 20 of the said Act and its heading "*Excavation*", the following sections and heading shall be substituted, namely:—

"*Archæological Excavation.*

Power of Governor General in Council to notify areas as protected.

20. (*1*) If the Governor General in Council, after consulting the Local Government, is of opinion that excavation for archæological purposes in any area should be restricted and regulated in the interests of archæological research, the Governor General in Council may, by notification in the Gazette of India specifying the boundaries of the area, declare it to be a protected area.

(*2*) From the date of such notification all antiquities buried in the protected area shall be the property of Government and shall be deemed to be in the possession of Government, and shall remain the property and in the possession of Government until ownership thereof is transferred; but in all other respects the rights of any owner or occupier of land in such area shall not be affected.

Power to enter upon and make excavations in a protected area.

20A. (*1*) Any officer of the Archæological Department or any person holding a licence under section 20B may, with the written permission of the Collector, enter upon and make excavations in any protected area.

(*2*) Where, in the exercise of the power conferred by sub-section (*1*), the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay to that person compensation for the infringement.

Power of Governor General in Council to make rules regulating archæological excavation in protected areas.

20B. (*1*) The Governor General in Council may make rules—

(*a*) prescribing the authorities by whom licences to excavate for archæological purposes in a protected area may be granted;

(*b*) regulating the conditions on which such licences may be granted, the form of such licences, and the taking of security from licensees;

(*c*) prescribing the manner in which antiquities found by a licensee shall be divided between Government and the licensee; and

(*d*) generally to carry out the purposes of section 20.

(*2*) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(*3*) Such rules may be general for all protected areas for the time being, or may be special for any particular protected area or areas.

(*4*) Such rules may provide that any person committing a breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

Power to acquire a protected area.

20C. If the Governor General in Council is of opinion that a protected area contains an ancient monument or antiquities of national interest and value, he may direct the Local Government to acquire such area, or any part thereof, and the Local Government may thereupon acquire such area or part under the Land Acquisition Act, 1894, as for a public purpose."

I of 1894.

Amendment of section 21, Act VII of 1904.

4. In section 21 of the said Act,—

(*a*) the words " amount of ", where they first occur, shall be omitted, and

(*b*) for the words " touching the amount " the words " in respect " shall be substituted.

ACT No. XIX OF 1932.[1]

[*30th September, 1932.*]

An Act to amend the Trade Disputes Act, 1929, for certain purposes.

WHEREAS it is expedient to amend the Trade Disputes Act, 1929, for the purposes hereinafter appearing; It is hereby enacted as follows:— VII of 1929.

Short title.

1. This Act may be called the Trade Disputes (Amendment) Act, 1932.

Amendment of section 13, Act VII of 1929.

2. In section 13 of the Trade Disputes Act, 1929,— VII of 1929.

(*a*) in sub-section (*1*),—

(*i*) for the words "except with the consent in writing of the Secretary of the Trade Union or of the person, firm or company in question" the words "if the Trade Union, person, firm or company in question has preferred a request to the Court or Board that such information shall be treated as confidential" shall be substituted, and

(*ii*) for the words "without such consent" the words "without the consent in writing of the Secretary of the Trade Union or the person, firm or company in question, as the case may be" shall be substituted;

(*b*) in sub-section (*2*), after the words "before a Court or Board" the word "wilfully" shall be inserted; and

(*c*) after sub-section (*2*) the following sub-sections shall be inserted, namely:—

"(*3*) No Criminal Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

(*4*) No Criminal Court shall take cognizance of any offence under this section except with the previous sanction of the authority appointing such Court or Board; and no Civil Court shall without the like sanction entertain any suit against a member of a Court or Board, or any person present at or concerned in the proceedings before a Court or Board, for any matter arising out of such proceedings."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 193.

THE PORT HAJ COMMITTEES ACT, 1932
(XX OF 1932).

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ACT No. XX OF 1932.[1]

[*1st October, 1932.*]

An Act to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz.

WHEREAS it is expedient to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Port Haj Committees Act, 1932. **Short title, extent and commencement.**

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 157; for Report of the Select Committee, *see ibid*, p. 169.

(*2*) It extends in the first instance to the Presidencies of Bombay and Bengal, but the Governor General in Council may, by notification in the Gazette of India, extend it to any other maritime province.

(*3*) This section shall come into force at once, and the remaining provisions of this Act shall come into force in any province to which the Act extends on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) a "pilgrim" means a Muslim proceeding on or returning from pilgrimage to the Hedjaz; and

(*b*) a "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez.

Initiation of Port Haj Committees.

3. As soon as may be after this Act comes into force in the Presidency of Bengal, there shall be constituted a committee, to be called the Port Haj Committee of Calcutta, and as soon as this Act comes into force in the Presidency of Bombay, there shall be constituted two committees, to be called the Port Haj Committee of Bombay and the Port Haj Committee of Karachi, respectively.

Composition of Port Haj Committees.

4. (*1*) The Port Haj Committee of Calcutta shall consist of nineteen members as follows:—

(*a*) seven members to be nominated by the Local Government, of whom not more than five shall be officials;

(*b*) two members to be elected by the elected Muslim Councillors and elected Muslim Aldermen of the Corporation of Calcutta;

(*c*) six members to be elected by an electorate consisting of—

(*i*) the elected Muslim members of the Bengal Legislative Council,

(*ii*) the Muslim members of the Council of State and of the Legislative Assembly, elected by constituencies in the Presidency of Bengal, and

(*iii*) the elected Muslim members of the Bengal Medical Council; and

(*d*) four members to be co-opted by the elected members of the Committee.

(*2*) The Port Haj Committee of Bombay shall consist of nineteen members as follows:—

(*a*) seven members to be nominated by the Local Government, of whom not more than five shall be officials;

(*b*) two members to be elected by the elected Muslim members of the Municipal Corporation of the City of Bombay;

(*c*) six members to be elected by an electorate consisting of—

(*i*) the elected Muslim members of the Bombay Legislative Council,

(*ii*) the Muslim members of the Council of State and of the Legislative Assembly, elected by constituencies in the Presidency of Bombay, and

(*iii*) the elected Muslim members of the Bombay Medical Council; and

(*d*) four members to be co-opted by the elected members of the Committee.

(*3*) The Port Haj Committee of Karachi shall consist of seventeen members as follows:—

(*a*) six members to be nominated by the Local Government, of whom not more than five shall be officials;

(*b*) two members to be elected by the elected Muslim members of the Municipality of Karachi;

(*c*) five members to be elected by the electorate defined in clause (*c*) of sub-section (*2*); and

(*d*) four members to be co-opted by the elected members of the Committee.

(*4*) An elected member of a Port Haj Committee need not be a member of the electorate which elects him.

(*5*) A member of a Port Haj Committee nominated by a Local Government may be nominated by virtue of office.

Power to alter composition of Port Haj Committee.

5. (*1*) The Local Government may propose to the Governor General in Council a draft of rules altering the composition of a Port Haj Committee, and the Governor General in Council, after previous publication of the draft in accordance with the provisions of section 23 of the General Clauses Act, 1897, shall take the draft into consideration.

X of 1897.

(*2*) The draft in the form finally approved by the Governor General in Council shall be published in the Gazette of India and in the local official Gazette, and thereupon the composition of the Port Haj Committee shall be altered accordingly.

Constitution of Port Haj Committees in other ports.

6. (*1*) When any port, other than Calcutta, Bombay or Karachi, situated in any province to which this Act extends, is appointed to be a port for pilgrim traffic in pursuance of sub-section (*1*) of section 150 of the Indian Merchant Shipping Act, 1923, the Governor General in Council may, subject to the condition of previous publication, make rules

XXI of 1923.

providing for the composition of a Port Haj Committee for such port, and shall cause the Committee to be constituted accordingly.

(2) The provisions of this Act shall apply to such Committee when constituted.

Nominations, elections and co-options.

7. (1) The election and co-option of members of Port Haj Committees shall be conducted in accordance with rules to be made in this behalf by the Local Government.

(2) As soon as may be after the election and co-option of members of a Port Haj Committee, the Local Government shall make the nominations permitted by section 4, and shall publish in the local official Gazette a list of the names of all members nominated, elected and co-opted;

Provided that the failure of anybody to elect or to co-opt a member shall not prevent the Local Government from making nominations or from publishing the list of members as provided in this sub-section:

Provided further that the list of members of a new Committee shall not be published before the expiry of three years from the date of the publication of the list of members of the Committee which it is replacing.

Term of office.

8. (1) Where a member of a Port Haj Committee is nominated by virtue of his office, the person for the time being holding the office shall be a member until the Local Government otherwise directs.

(2) The term of office of other members (except members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members under sub-section (2) of section 7, and ending on the date of the publication of the list of members of the next Committee.

Formation of new Committees.

9. (1) At such time as the Local Government may deem to be expedient before or after the expiry of the period of three years after the publication of the list of members of a Committee under sub-section (2) of section 7, the Local Government shall take or cause to be taken all necessary steps for the election, co-option and nomination of members of the new Committee.

(2) No person shall be ineligible for election, co-option or nomination to a Port Haj Committee on the ground that he is or has been a member of a Port Haj Committee.

Rules relating to the constitution of Committees.

10. The Local Government may make rules—

(a) prescribing the disqualifications which shall disqualify any person from being elected, co-opted or nominated as member of a Port Haj Committee;

(b) providing for the decision of doubts and disputes relating to the election and co-option of members;

(*c*) regulating the resignation of members;

(*d*) prescribing the reasons for which members may be removed, and providing for their removal;

(*e*) regulating the filling of casual vacancies and the term of office of members filling casual vacancies; and

(*f*) providing for any other matter which the Local Government may deem to be expedient for the proper constitution of Port Haj Committees.

Chairmen and Vice-Chairmen.

11. (*1*) After the publication of the list of members of a Port Haj Committee under sub-section (*2*) of section 7, the Local Government shall direct the Committee to elect one of its members to be Chairman within a time to be specified in such direction.

(*2*) If within the time so specified the Committee fails to elect a Chairman, the Local Government may appoint a member of the Committee to be Chairman of the Committee.

(*3*) An elected Chairman shall not take up his office until his election has been approved by the Local Government.

(*4*) A Port Haj Committee may elect from amongst its members not more than two members to be Vice-Chairmen.

(*5*) The appointment or election of Chairmen and Vice-Chairmen shall be notified in the local official Gazette.

Power to make rules regarding Chairmen and Vice-Chairmen.

12. The Local Government may make rules—

(*a*) prescribing the term of office of Chairmen;

(*b*) prescribing the powers and duties of Chairmen;

(*c*) regulating the resignation of Chairmen;

(*d*) prescribing the reasons for which Chairmen and Vice-Chairmen may be removed, and providing for their removal; and

(*e*) regulating the filling of casual vacancies in the office of Chairman and the term of office of persons filling such vacancies.

Power to make by-laws regarding Chairmen and Vice-Chairmen.

13. A Port Haj Committee may, with the previous sanction of the Local Government, make by-laws—

(*a*) prescribing the term of office of Vice-Chairmen;

(*b*) prescribing the powers and duties of Vice-Chairmen, and also the powers and duties of the Chairman in so far as they have not been prescribed by rules under section 12;

(*c*) regulating the resignation of Vice-Chairmen; and

(*d*) regulating the filling of casual vacancies in the office of Vice-Chairman, and the term of office of persons filling such vacancies.

Officers and servants of Port Haj Committees.

14. (*1*) Until the expiry of a period of four years from the date of the publication of the list of members of a Port Haj Committee on its first constitution, the Local Government shall. in consultation with the Committee, appoint, for each Port Haj Committee, a person to be Executive Officer, who shall also be Secretary to the Committee, and shall also in like manner appoint such other officers and servants as it may consider necessary for the efficient discharge of the duties of the Committee.

(*2*) The Local Government may make rules—

(*a*) regulating the relations between a Port Haj Committee and its Executive Officer;

(*b*) regulating the subordination of the other officers and servants of a Port Haj Committee to the Committee and to the Executive Officer;

(*c*) determining the conditions of service of an Executive Officer and other officers and servants;

(*d*) prescribing the powers and duties of the Executive Officer in so far as they are not prescribed by this Act; and

(*e*) prescribing the powers and duties of the other officers and servants of a Port Haj Committee.

(*3*) Rules made under sub-section (*2*) may authorise a Port Haj Committee to make by-laws providing for any of the matters specified in that sub-section in so far as such matters are not provided for in the rules.

Delegation to Port Haj Committee of control over its officers and servants.

15. (*1*) Within the period of four years referred to in sub-section (*1*) of section 14 the Local Government may, and on the expiry of that period the Local Government shall, by notification in the local official Gazette, authorise a Port Haj Committee to appoint its Executive Officer, and to appoint such other officers and servants as the Committee may deem to be necessary for the efficient discharge of its duties.

(*2*) Such authorisation may impose such restrictions and conditions as the Local Government may think fit.

(*3*) A Port Haj Committee so authorised may make by-laws providing for any of the matters specified in sub-section (*2*) of section 14, and may cancel any rule made under that sub-section in so far as it applies to such Committee and its officers and servants.

Payment of salaries, etc., of officers and servants.

16. The pay and allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by the Local Government under section 14 shall be paid by the Governor General in

Council, and the pay, allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by a Committee under section 15 shall be paid by the Committee out of the funds at its disposal.

Meetings of Committees and conduct of business.

17. (*1*) A Port Haj Committee shall meet at least once in every month during the four months before the Haj Day and during the two months after the Haj Day, and at least once in each three months during the rest of the year.

(*2*) The number of members required to make a quorum at any meeting shall be six.

(*3*) All matters shall be decided by a majority of the members present, and in the event of an equality of votes the Chairman or other person presiding shall have a casting vote.

(*4*) A Port Haj Committee may make by-laws—

(*a*) regulating the convening of its meetings;

(*b*) regulating the conduct of business at its meetings;

(*c*) prescribing the registers and records which shall be maintained;

(*d*) providing for the publication of its proceedings and of any other matters of interest to pilgrims; and

(*e*) providing for any other matter which the Committee may deem necessary for the regulation of its meetings and its business:

Provided that the Local Government may, at any time before the first meeting of a Committee after the commencement of this Act, frame instructions for the Committee on all or any of the matters specified in this sub-section, and such instructions shall be deemed to be by-laws made by the Committee under this sub-section until they are superseded by by-laws so made.

(*5*) Anything done or any proceeding taken by a Port Haj Committee shall not be questioned on the ground of any vacancy in the Committee, or on account of any defect or irregularity not affecting the merits of the case.

Duties of Port Haj Committees.

18. (*1*) The duties of a Port Haj Committee shall be—

(*a*) to collect and disseminate information useful to pilgrims;

(*b*) to advise and assist pilgrims during their stay at the port, while proceeding to or returning from the Hedjaz, in all matters including vaccination, inoculation, medical inspection and issue of passes and passports, and to co-operate with the local authorities concerned in such matters;

(*c*) to give relief to indigent pilgrims;

(*d*) to negotiate and co-operate with railways and shipping companies for the purpose of securing travelling facilities for pilgrims;

(*e*) to find suitable Muslims for employment by shipping companies on pilgrim ships;

(*f*) to bring the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in the carrying out of the provisions of the Indian Merchant Shipping Act, 1923, to the notice of the authorities concerned, and to suggest remedies; XXI of 1923.

(*g*) to authorise whenever practicable an individual pilgrim or a committee of pilgrims on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship; and

(*h*) such other duties in connection with the pilgrim traffic as may be entrusted to it by Government.

(*2*) The Local Government shall afford all reasonable assistance to the Port Haj Committee in the discharge of the duties imposed by this section.

Inspection of pilgrim ships.

19. (*1*) Each Port Haj Committee shall appoint one or more sub-committees composed of two of its members, whose duties shall be the inspection of pilgrim ships.

(*2*) Any such sub-committee when inspecting a pilgrim ship shall be accompanied by the certifying officer appointed for the port under section 151 of the Indian Merchant Shipping Act, 1923, or by the Surveyor of the ship or other person deputed by the certifying officer. XXI of 1923.

(*3*) The Executive Officer of a Port Haj Committee or a sub-committee appointed under sub-section (*1*) may enter and inspect any pilgrim ship advertised or offering to sail from or which has returned to the port for which the Committee is constituted.

(*4*) A master or any officer of a pilgrim ship who fails to render every reasonable facility for such inspection shall be punishable with fine which may extend to five hundred rupees.

(*5*) No Magistrate other than a Presidency Magistrate or Magistrate of the first class shall take cognizance of an offence punishable under sub-section (*4*), and such Magistrates shall take cognizance of such offence only on written complaint by the Chairman of the Port Haj Committee concerned.

Haj Funds.

20. In each port in which there is a Port Haj Committee there shall be created a fund, to be called the Haj Fund of the port concerned, and

there shall be placed to the credit thereof the following sums, in so far as they arise or have arisen in the port concerend, namely:—

(*a*) the interest on all deposits made by pilgrims under clause (*b*) of section 208A of the Indian Merchant Shipping Act, 1923; XXI of 1923.

(*b*) sums realised from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims, which are unclaimed and have lapsed to Government;

(*c*) any fees which may be levied for the issue of visitors' passes to friends and relations of pilgrims who desire to go on board a pilgrim ship;

(*d*) the amount now standing to the credit of the fund known as the Indigent Pilgrims' Fund: provided that such amount shall be applied by the Committee solely for the relief of indigent pilgrims;

(*e*) any sums received by the Haj Fund from private sources; and

(*f*) any sums allotted by Government to the Haj Fund.

Application of the Haj Fund.

21. A Haj Fund of a port shall, subject to rules made under section 22, be under the control and management of the Port Haj Committee for that port, and shall be applicable to the payment of charges and expenses incidental to the objects specified in section 18, and of any other object specified by rules made under clause (*c*) of section 22.

Power to make rules for the financial control of Committees.

22. The Local Government may, subject to the control of the Governor General in Council, make rules—

(*a*) providing for the custody of Haj Funds;

(*b*) regulating the investment of balances of Haj Funds;

(*c*) prescribing the objects to which Haj Funds shall be applicable, in addition to those prescribed in section 18;

(*d*) fixing the limits of expenditure which may be incurred by a Committee without sanction, and providing for the grant of sanction for expenditure exceeding those limits;

(*e*) regulating the preparation, submission and approval of the budgets of Committees;

(*f*) prescribing the accounts to be kept by Committees, and providing for the audit and publication thereof;

(*g*) prescribing the returns, statements and reports to be submitted by Committees; and

(*h*) generally providing for the control of Committees in respect of financial matters.

Provisions regarding rules and by-laws.

23. (*1*) Rules made by the Local Government under this Act shall be made by notification in the local official Gazette and shall be subject to the condition of previous publication.

(*2*) By-laws made by a Port Haj Committee shall be submitted to the Local Government, and shall not take effect until they have been confirmed by the Local Government.

(*3*) By-laws which have been confirmed by the Local Government shall be published in the local official Gazette.

Repeals.

24. (*1*) On the date on which this Act comes into force in the Presidency of Bombay, sections 8, 9 and 10 of the Protection of Pilgrims Act, 1887, shall be repealed. **Bom. Act II of 1887.**

(*2*) On the date on which this Act comes into force in the Presidency of Bengal, sections 8, 9 and 10 of the Protection of Muhammadan Pilgrims Act, 1896, shall be repealed. **Ben. Act I of 1896.**

ACT No. XXI OF 1932.[1]

[*1st October, 1932.*]

An Act further to amend the Code of Criminal Procedure, 1898, for a certain purpose.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing; It is hereby enacted as follows:— **V of 1898.**

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1932.

Amendment of section 526, Act V of 1898.

2. In section 526 of the Code of Criminal Procedure, 1898,— **V of 1898.**

(*a*) in sub-section (*5*), for the words "has power under this section to award by way of costs" the words "may under this section award by way of compensation" shall be substituted;

(*b*) in sub-section (*6A*), for the word "costs" the word "compensation" shall be substituted, and for the words "any expenses reasonably incurred by such person in consequence

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 197; for Report of the Select Committee, *see ibid*, p. 199.

of the application" the words "such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case" shall be substituted;

(*c*) for sub-section (*8*) the following sub-section shall be substituted, namely:—

"(*8*) If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon:

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused";

(*d*) to sub-section (*9*) the following Explanation shall be added, namely:—

"*Explanation.*—Nothing contained in sub-section (*8*) or sub-section (*9*) restricts the powers of a Court under section 344"; and

(*e*) after sub-section (*9*) as so amended the following sub-section shall be added, namely:—

"(*10*) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon."

THE TEA DISTRICTS EMIGRANT LABOUR ACT, 1932 (XXII OF 1932).

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ACT No. XXII OF 1932.[1]

[*8th October, 1932.*]

An Act to amend the law relating to emigrant labourers in the tea districts of Assam.

WHEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Tea Districts Emigrant Labour Act, 1932.

(*2*) It extends to the whole of British India, including the Sonthal Parganas.

(*3*) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "tea district" means any of the following districts in the province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract;

(*b*) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

(*c*) "recruiting province" means any province other than Assam;

(*d*) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;

(*e*) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;

(*f*) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting province or in any Indian State, is proceeding through

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 133; for Report of the Select Committee, *see ibid*, p. 179.

any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(*g*) " assistance " means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and " assisted " and " with assistance " when used with reference to any person mean that such person has received assistance;

(*h*) an " emigrant labourer " means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate,

and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult has taken employment not on a tea estate;

(*i*) the " family " of any person includes the following, if living with him, namely,—

(*i*) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(*ii*) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(*iii*) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;

(*j*) " employing interest " means any employer of labourers, or any group or association of such employers; and

(*k*) " prescribed " means prescribed by rules made by the Governor General in Council.

Appointment and status of Controller and Deputy Controllers.

3. (*1*) The Governor General in Council may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(*2*) The Governor General in Council may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the Governor General in Council may determine.

(*3*) The Controller may, from time to time and subject to the control of the Governor General in Council, make a distribution of work as between himself and the Deputy Controllers.

(*4*) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Powers of the Controller.

4. The Controller shall have power—

(*a*) to enter

(*i*) all open places on a tea estate,

(*ii*) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,

(*iii*) any office of a tea estate,

(*iv*) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting province,

(*v*) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;

(*b*) to inspect, in any office or depot mentioned in sub-clauses (*iii*) and (*iv*) of clause (*a*), any register or other document required to be kept under this Act;

(*c*) to carry out in any place mentioned in clause (*a*) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and

(*d*) to do any other reasonable act which may be expedient in the discharge of his duties.

Emigrant Labour Cess.

5. (*1*) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

(*2*) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(*3*) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the Governor General in Council may, by notification in the Gazette of India, determine for the year of levy.

(*4*) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the Governor General in Council.

Power to make rules for the collection of the Emigrant Labour Cess.

6. (*1*) The Governor General in Council may, by notification in the Gazette of India, make rules—

(*a*) prescribing the agency which shall collect the Emigrant Labour Cess;

(*b*) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;

(*c*) regulating the procedure of the collecting agency;

(*d*) prescribing the mode of payment of the cess;

(*e*) determining the date when any sum payable as cess shall be an arrear;

(*f*) declaring that an arrear of cess may be recovered as an arrear of land-revenue and prescribing the procedure to be followed to secure such recovery; and

(*g*) generally, to secure the equitable collection of the cess.

CHAPTER II.

REPATRIATION.

General right of repatriation after three years in Assam.

7. Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

Right to repatriation on dismissal.

8. (*1*) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

(*2*) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

Rights of repatriation of family of deceased emigrant labourer.

9. (*1*) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(*2*) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

Right to apply for repatriation in certain circumstances.

10. (*1*) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(*a*) that his state of health makes it imperative that he should leave Assam, or

(*b*) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work, or

(*c*) that his employer has unjustly withheld any portion of any wages due to him, or

(*d*) any other sufficient cause.

(*2*) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(*a*) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(*b*) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(*3*) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer:

Provided that a declaration in pursuance of clause (*d*) of sub-section (*1*) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

Power of criminal Courts to order repatriation.

11. Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code with imprisonment for one year or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer. XLV of 1860.

Incidents of the right of repatriation.

12. (*1*) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such

labourer and his family for the time requisite for him and his family to travel from such estate to his home:

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her:

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(*2*) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

The discharge of an employer's duty to repatriate.

13. (*1*) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey:

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(*2*) Where an employer fails to comply with the provisions of sub-section (*1*), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default:

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

Postponement, waiver and forfeiture of the right.

14. (*1*) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises:

Provided that the Governor General in Council may, by notification in the Gazette of India, make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement:

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(*2*) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

Power of the Controller to enforce the provisions of this Chapter.

15. (*1*) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (*2*) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(*2*) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(*3*) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

(*4*) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

CHAPTER III.

Controlled Emigration Areas.

Power to declare controlled emigration areas.

16. (*1*) Subject to the control of the Governor General in Council, the Local Government of a recruiting province may, by notification in the local official Gazette, declare any area within such province to be a controlled emigration area, and thereupon the provisions of this Chapter shall apply to that area:

Provided that, subject to the like control, the Local Government may, by the same or by subsequent notification, declare that any of the provi-

sions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(*2*) A notification under sub-section (*1*) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

Power to grant licences to local forwarding agents.

17. (*1*) The Local Government, or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(*2*) Such licences shall be granted only on the application of an employing interest.

(*3*) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(*4*) A local forwarding agent may be granted separate licences on applications by separate employing interests.

Recruits in controlled emigration areas to be sent to forwarding agents' depots.

18. (*1*) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

(*2*) Whoever arranges with any person in an Indian State that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(*3*) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.

19. An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

Maintenance of depots along prescribed routes.

20. Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

Power of Local Government to make rules.

21. (*1*) The Local Government may, by notification in the local official Gazette, make rules—

(*a*) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences;

(*b*) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents;

(*c*) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots;

(*d*) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots;

(*e*) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances;

(*f*) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied;

(*g*) providing for any other matter which in the opinion of the Local Government may be required to give effect to the provisions of this Chapter.

(*2*) In making rules under clause (*b*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*), the Local Government may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Inspection of depots, vessels and vehicles.

22. (*1*) The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam,

and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(*2*) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling, whether along a prescribed route or not.

Action where proper arrangements not made for assisted emigrants.

23. If the Governor General in Council is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, he may require the Local Government to direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest:

Provided that the Governor General in Council shall not make any requisition for the cancellation of licences under this section until he has given the employing interest concerned an opportunity to submit its explanation.

Cancellation of licences.

24. (*1*) The Local Government may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

(*a*) if, in the opinion of the Local Government or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or

(*b*) if the employing interest, on whose application the licence was granted, has applied to the Local Government or to the District Magistrate, as the case may be, for the cancellation of the licence, or

(*c*) if in the opinion of the Local Government or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:

Provided that no licence shall be cancelled under clause (*a*) until the holder thereof has or under clause (*c*) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

Provided further that a cancellation under clause (*c*) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(*2*) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (*a*) of sub-section (*1*), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the Local Government, whose decision shall be final.

Penalty for illicit abetment of emigration.

25. Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both

CHAPTER IV.

Restricted Recruiting Areas.

Power to declare restricted recruiting areas.

26. (*1*) The Local Government of a recruiting province may with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare any controlled emigration area or any part of a controlled emigration area within such province to be a restricted recruiting area, and thereupon the provisions of this Chapter shall apply to that area:

Provided that, subject to the like sanction, the Local Government may, by the same or by subsequent notification, declare that any of the provisions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(*2*) A notification under sub-section (*1*) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

Grant of licences to recruiters.

27. (*1*) Subject to rules made under sub-section (*2*) and sub-section (*3*), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

(*2*) The Governor General in Council may, by notification in the Gazette of India, make rules prescribing the qualifications for persons who may be granted licences under this section.

(*3*) The Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules—

(*a*) regulating the procedure of the District Magistrate in granting such licences,

(*b*) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

Grant of certificates to garden-sardars.

28. (*1*) Subject to rules made under sub-section (*2*), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified:

Provided that the Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf.

(*2*) The Local Government of Assam may make rules—

(*a*) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(*b*) prescribing the form and particulars of such certificates.

Cancellation and suspension of recruiter's licence.

29. The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act:

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

Cancellation of garden-sardar's certificate.

30. (*1*) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(*2*) A District Magistrate cancelling a certificate under sub-section (*1*) shall record his reasons, and shall send intimation of his action to

the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

Penalty for illicit recruitment.

31. Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER V.

SUPPLEMENTAL.

Prohibition of the recruitment of children.

32. (*1*) No person shall in any way assist a child to proceed from any recruiting province to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband.

(*2*) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power to detain and return sick persons.

33. (*1*) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may—

(*a*) detain such person and his family,

(*b*) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and

(*c*) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(*2*) Where it appears that a sufferer detained under sub-section (*1*) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home

of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

Power to return person improperly recruited.

34. Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

(*a*) has been recruited by coercion, undue influence, fraud or misrepresentation, or

(*b*) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if such person so desires be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

Power to enforce the provisions of sections 33 and 34.

35. (*1*) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (*1*) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(*2*) In making a direction under sub-section (*2*) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the province where such person then is.

(*3*) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the costs out of any funds at the Controller's disposal.

(*4*) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(*5*) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

Magistrates and medical officers who may exercise the powers of the Controller.

36. (*1*) Subject to the provisions of sub-section (*3*) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

(*2*) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (*1*) to dispose of it.

(*3*) The Local Government of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the Local Government of Assam may invest a Sub-Divisional Magistrate with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be.

(*4*) The Local Government may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

Power of Governor General in Council to make rules.

37. (*1*) The Governor General in Council may, by notification in the Gazette of India, make rules—

(*a*) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;

(*b*) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities;

(*c*) prescribing scales of subsistence allowances for the purposes of section 12;

(*d*) prescribing the form of agreements under section 14;

(*e*) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts;

(*f*) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents;

(*g*) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder;

(*h*) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;

(*i*) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers and their families, and of their journeys to and from Assam, and prescribing the form of such registers;

(*j*) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the Governor General in Council may think expedient for carrying out the purposes of this Act; and

(*k*) generally, to carry out the purposes of this Act.

(*2*) The Local Government of Assam may, by notification in the local official Gazette, make rules requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(*3*) In making rules under sub-section (*1*), the Governor General in Council, and in making rules under sub-section (*2*) the Local Government, may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

Powers to extend the scope of this Act.

38. (*1*) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(*2*) Subject to the control of the Governor General in Council, the Local Government of Assam may, by notification in the local official Gazette, declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (*a*) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

Saving for acts done in good faith under the Act.

39. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Bar of jurisdiction of Civil Courts.

40. No Civil Court shall have jurisdiction—

(*a*) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(*b*) to enforce any liability incurred under this Act.

Repeal of Act VI of 1901 and certain consequences.

41. (*1*) The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(*2*) The Assam Labour Board constituted under section 116A of the Assam Labour and Emigration Act, 1901, is hereby dissolved.

VI of 1901.

(*3*) All accumulations of the cess leviable under section 116E of the said Act are hereby transferred to the credit of the Emigrant Labour Fund, subject to the payment of all outstanding claims payable out of the said accumulations.

THE SCHEDULE.

(See section 41.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1901	VI . .	The Assam Labour and Emigration Act, 1901.	The whole.
1908	XI . .	The Assam Labour and Emigration (Amendment) Act, 1908.	The whole.
1915	VIII . .	The Assam Labour and Emigration (Amendment) Act, 1915.	The whole.
1920	XXXVIII .	The Devolution Act, 1920 . .	In Part I of the First Schedule, the entry relating to the Assam Labour and Emigration Act, 1901 (VI of 1901).
1927	XXXI .	The Assam Labour and Emigration (Amendment) Act, 1927.	The whole.

THE CRIMINAL LAW AMENDMENT ACT, 1932 (XXIII OF 1932).

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ACT No. XXIII OF 1932.[1]

[*19th December, 1932.*]

An Act to Supplement the Criminal Law.

WHEREAS it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend temporarily the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;

XXIII of 1931.

XIV of 1908.

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Criminal Law Amendment Act, 1932. **Short title, extent, duration and commencement.**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall remain in force for three years from its commencement.

(*4*) The whole of the Act except section 4 and section 7 shall come into force at once, and the Local Government may, by notification[2] in the local official Gazette, direct that section 4 or section 7 shall come into force in any area on such date as may be specified in the notification.

2. Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the military, Naval, Air or Police service **Dissuasion from enlistment.**

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 206; for Report of Select Committee, *see ibid*, 1932, Pt. V, p. 225.

The Act has been declared in force in Angul (under S. 15 of the Angul Laws Regulation, 1913), from 26th December, 1932, B. & O. Gazette, Extraordinary, dated 26th December, 1932.

[2] *Section 7 was brought into force—*

throughout B. & O. and the district of Angul from 26th December, 1932, B. & O. Gazette, Extraordinary, dated 26th December, 1932;

throughout the Delhi Province from 24th December, 1932, Gazette of India, Extraordinary, 1932, p. 429;

throughout Lahore and Amritsar districts from 31st December, 1932, Punjab Gazette, Extraordinary, 1932, p. 163;

in the Districts of Sylhet, Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur from 7th January, 1933, Assam Gazette, Extraordinary, dated 7th January, 1933.

Sections 4 and 7 were brought into force—

In the City of Bombay, the Bombay Suburban district and the districts of Karachi, Kaira, Ahmednagar, East Khandesh, West Khandesh, Ratnagiri and Kanara from 29th December, 1932, Bombay Gazette, Extraordinary, dated 27th December, 1932.

of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Exception 1.—This provision does not extend to comments on or criticisms of the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment.

Exception 2.—This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants.

Tampering with public servants.

3. Whoever induces or attempts to induce any public servant to fail in his duty as such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village choukidar, and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929. XLV of 1860. VII of 1929.

Boycotting a public servant.

4. *(1)* Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with, whether by supplying goods to, or otherwise, or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—For the purposes of this section "public servant" has the same meaning as in section 3 but includes also a person in the Military, Naval or Air Service of His Majesty.

(2) No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of or under authority from the Local Government or some officer empowered by the Local Government in this behalf.

Dissemination of contents of proscribed document.

5. *(1)* Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local

Government, seditious or other matter of the nature referred to in
V of 1898. sub-section (*1*) of section 99A of the Code of Criminal Procedure, 1898,
XXIII of 1931. or sub-section (*1*) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

Dissemination of false rumours.

6. (*1*) Whoever makes, publishes or circulates any statement, rumour or report which is false and which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section public servant means
XLV of 1860. a public servant as defined in section 21 of the Indian Penal Code.

(*2*) So long as this section remains in force, clause (*b*) of section
XLV of 1860. 505 of the Indian Penal Code shall be inoperative.

Molesting a person to prejudice of employment or business.

7. (*1*) Whoever—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(*2*) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

Power to order parent or guardian to pay fine imposed on young person

8. (*1*) Where any young person under the age of sixteen years is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or

guardian of such young person as if it had been a fine imposed upon the parent or guardian.

Explanation.—In this section the word "guardian" includes any person who, in the opinion of the Court, has for the time being the charge of or control over the offender.

(*2*) Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace.

(*3*) Where a parent or guardian is ordered to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Procedure in offences under the Act.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— V of 1898.

(*i*) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act;

(*ii*) an offence punishable under sections 2, 3, 5, 6 or 7 shall be cognizable by the police;

(*iii*) an offence punishable under section 4 shall be an offence in which a warrant shall ordinarily issue in the first instance; and

(*iv*) an offence punishable under section 7 shall be non-bailable.

Power of Local Government to make certain offences cognizable and non-bailable.

10. (*1*) The Local Government may, by notification[1] in the local official Gazette, declare that any offence punishable under sections 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed in any area specified in the notification shall, XLV of 1860. notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognizable, and thereupon the Code of Criminal Procedure, V of 1898. 1898, shall, while such notification remains in force, be deemed to be V of 1898. amended accordingly.

(*2*) The Local Government may, in like manner [2]and subject to the like conditions, and with the like effect, declare that an offence punishable under section 188 or section 506 of the Indian Penal Code shall XLV of 1860. be non-bailable.

Amendment of section 16, Act XIV of 1908.

11. So long as this Act remains in force, section 16 of the Indian Criminal Law Amendment Act, 1908, shall be deemed to be re-number- XIV of 1908.

[1] For such Notification as to the Province of B. & O. and the district of Angul, except as regards s. 507 of the Indian Penal Code, *see* B. & O. Gazette, Extraordinary, dated 26th December, 1932.

For Notification as to Bombay Presidency under sub-section (1) and (2) of this section, *see* Bombay Gazette Extraordinary, dated 27th December, 1932.

[2] For Notification under this sub-section as to the province of B. & O. and the district of Angul, *see* B. & O. Gazette Extraordinary, dated 26th December, 1932; as to Bombay Presidency, *see* footnote .[1]

ed as sub-section (*1*) of section 16 and to that section as so re-numbered the following sub-section shall be deemed to be added, namely:—

"(*2*) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India."

Amendment of section 17, Act XIV of 1908.

12. So long as this Act remains in force, to section 17 of the Indian Criminal Law Amendment Act, 1908, the following sub-section shall be deemed to be added, namely:—

XIV of 1908.

"(*3*) An offence under sub-section (*1*) shall be cognizable by the police, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, shall be non-bailable."

V of 1898.

Insertion of new sections 17A, 17B, 17C, 17D, 17E and 17F in Act XIV of 1908.

13. So long as this Act remains in force, after section 17 of the Indian Criminal Law Amendment Act, 1908, the following sections shall be deemed to be inserted, namely:—

XIV of 1908.

Power to notify and take possession of places used for the purposes of an unlawful association.

"17A. (*1*) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association.

Explanation.—For the purposes of this section 'place' includes a house or building, or part thereof or a tent or vessel.

(*2*) The District Magistrate or in a Presidency-town the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government:

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(*3*) A notified place whereof possession is taken under sub-section (*2*) shall be deemed to remain in the possession of Government so long as the notification under sub-section (*1*) in respect thereof remains in force.

Moveable property found in a notified place.

17B. (*1*) The District Magistrate, Commissioner of Police or officer taking possession of a notified place shall also take possession of all moveable property found therein and shall make a list thereof in the presence of two respectable witnesses.

(*2*) If, in the opinion of the District Magistrate, or in a Presidency-town the Commissioner of Police, any articles specified in the list are or may be used for the purposes of the unlawful association, he may

proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to His Majesty.

(*3*) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the District Magistrate or Commissioner of Police, as the case may be, may direct.

(*4*) The District Magistrate or Commissioner of Police shall publish, as nearly as may be in the manner provided in section 87 of the Code of Criminal Procedure, 1898, for the publication of a proclamation, a V of 1898. notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.

(*5*) Where any such representation is accepted by the District Magistrate or Commissioner of Police, he shall deal with the article concerned in accordance with the provisions of sub-section (*3*).

(*6*) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (*3*).

(*7*) In making an adjudication under sub-section (*6*) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be V of 1908. made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.

(*8*) If the article seized is livestock or is of a perishable nature, the District Magistrate or Commissioner of Police may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

Trespass upon notified places.

17C. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass.

The relinquishment of property.

17D. Before a notification under sub-section (*1*) of section 17A is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places.

17E. (*1*) Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty. Power to forfeit funds of an unlawful association.

(*2*) A copy of an order under sub-section (*1*) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(*3*) Before an order of forfeiture is made under sub-section (*1*) the Local Government shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of its intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge in a District, or to the Chief Judge of the Small Cause Court in a Presidency-town, to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of, and unless the District Judge or Chief Judge of the Small Cause Court has decided that the monies, securities or credits are liable to forfeiture.

(*4*) In disposing of an application under sub-section (*3*) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final. V of 1908.

(*5*) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(*6*) The Local Government may endorse a copy of an order under sub-section (*3*) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries

from such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(*7*) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business. V of 1898.

(*8*) Where an order of forfeiture is made under sub-section (*1*) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (*3*), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(*9*) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(*10*) In this section, 'security' includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

(*11*) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (*6*) shall be divulged by any officer of Government, without the consent of the Local Government.

Jurisdiction barred.

17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E no proceeding purporting to be taken under section 17A, 17B, 17C, 17D or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or

by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

Amendment of title and preamble of Act XXIII of 1931.

14. In the long title and in the preamble of the Indian Press (Emergency Powers) Act, 1931, for the words "against the publication of matter inciting to or encouraging murder or violence" the words "for the better control of the Press" shall be substituted.

XXIII of 1931.

Amendment of section 1, Act XXIII of 1931.

15. For sub-section (*3*) of section 1 of the Indian Press (Emergency Powers) Act, 1931, the following sub-section shall be substituted, namely:—

"(*3*) It shall remain in force until the expiration of the Criminal Law Amendment Act, 1932."

XXIII of 1931.

Amendment of section 4, Act XXIII of 1931.

16. In sub-section (*1*) of section 4 of the Indian Press (Emergency Powers) Act, 1931,—

(*a*) after clause (*b*) the following words and clauses shall be inserted, namely:—

"or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force,";

(*b*) the *Explanation* shall be numbered as *Explanation 1*, and after the *Explanation* as so numbered the following *Explanations* shall be inserted, namely:—

"*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity, or hatred between different classes of His Majesty's subject shall not be deemed to be words of the nature described in clause (*h*) of this sub-section."

Cessation of effect of section 62, Ordinance X of 1932.

17. On the commencement of this Act section 62 of the Special Powers Ordinance, 1932, shall cease to have effect. X of 1932.

Adoption and continuance of action taken under Ordinance X of 1932.

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, X of 1932. shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended XIV of 1908. by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

Adoption and continuance of action taken under Act XXIII of 1931 as amended by Ordinance X of 1932.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as XXIII of amended by section 77 of the Special Powers Ordinance, 1932, shall, 1931, as upon the commencement of this Act, be deemed to have been done or X of 1932. to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this XXIII of Act, and shall have effect as if this Act was already in force when such 1931. thing was done or such proceedings were commenced.

Trial of, and completion of trials of, offences against Ordinance X of 1932.

20. Any person accused of the commission of an offence punishable under section 24, 25, 26, 28, 67 or 70, or by reason of the provisions of Chapter VI of the Special Powers Ordinance, 1932, may, notwithstanding the expiry of the said Ordinance, be tried and punished as if such offence were an offence punishable under or by reason of the corresponding enactment of this Act, and as if this Act had been in force at the time of such commission; and any trial of any such offence begun but not completed at the expiry of the Special Powers Ordinance, 1932, may be continued and completed as if it had been begun after the passing of this Act:

X of 1932.

X of 1932.

Provided that no trial of an offence punishable under section 67 or 70 of the said Ordinance shall be begun, continued or completed in any area in which section 4 or section 7, as the case may be, is not in force.

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[1]ACT No. XXV OF 1932.

[*23rd December, 1932.*]

An Act further to amend the Indian Tariff Act, 1894, for certain purposes.

WHEREAS at the Imperial Economic Conference held at Ottawa between the 21st day of July and the 20th day of August, 1932, the Government of India by their representatives made with His Majesty's Government in the United Kingdom by their representatives a Trade Agreement;

AND WHEREAS a Supplementary Agreement regarding iron and steel was likewise made by the said Governments;

AND WHEREAS in pursuance of the said Trade Agreement and the said Supplementary Agreement it is expedient to amend the Indian Tariff Act, 1894, in the manner hereinafter appearing;

VIII of 1894.

It is hereby enacted as follows:—

Short title and commencement

1. (*1*) This Act may be called the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932.

(*2*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, appoint.

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[1] For Statement of Objects and Reasons, *see* Gazette of India Extraordinary, 1932, p. 425; for Report of Select Committee, *see* Gazette of India, 1932, Pt. V, p. 245.

[2] This Act came into force on the 1st January 1933; *see* Notification No. 780-T-(12), dated 24th December, 1932, Gazette of India, 1932, Pt. I, p. 1458.

Amendment of section 3, Act VIII of 1894.

2. In section 3 of the Indian Tariff Act, 1894 (hereinafter referred to as the said Act), after sub-section (*3*), the following sub-sections shall be inserted, namely:— VIII of 1894.

"(*3A*) The duty to be levied and collected on any article chargeable under Part VIII or Part IX of the Second Schedule shall be at the standard rate specified for it, unless a preferential rate is specified for such article if it is the produce or manufacture of the United Kingdom or of a British Colony, and the article is determined, in accordance with rules made under sub-section (*3B*), to be such produce or manufacture.

Explanation.—For the purposes of this section and of Parts VIII and IX of the Second Schedule, the expression "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and the expression "British Colony" includes a British Protectorate and any of the Mandated Territories of Tanganyika, the Cameroons under British Mandate and Togoland under British Mandate.

(*3B*) The Governor General in Council may, by notification in the Gazette of India, make rules—

(*a*) for determining if any article is the produce or manufacture of the United Kingdom or a British Colony; and

(*b*) making provision, in cases where at the time of importation proof is not forthcoming where required in accordance with the rules made under clause (*a*) that any article is the produce or manufacture of the United Kingdom or a British Colony—

(*i*) whereby duty may be levied at the standard rate and a refund given of the extra duty paid if such proof is produced within a prescribed period, and

(*ii*) whereby duty may be accepted provisionally at the preferential rate on execution of a bond for the payment of the balance of duty if such proof is not produced within a prescribed period, and for the recovery of any balance due after the expiry of the prescribed period as if such balance were duty short-levied within the meaning of section 39 of the Sea Customs Act, 1878." VIII of 1878.

Amendment of the Second Schedule, Act VIII of 1894.

3. In the Second Schedule to the said Act, there shall be made the amendments specified in the Schedule to this Act.

4. (*1*) Notwithstanding anything contained in section 4 of the Indian Finance Act, 1931, the additional duties imposed by that section shall not be levied or collected on any articles chargeable with duty under Part VIII or Part IX of the said Schedule to the said Act as amended by section 3 of this Act. Bar of operation of section 4, Indian Finance Act, 1931, and section 4, Indian Finance (Supplementary and Extending) Act, 1931.

(*2*) Notwithstanding anything contained in section 4 of the Indian Finance (Supplementary and Extending) Act, 1931, the additional duty imposed by that section shall not be levied or collected on iron or steel sheets comprised in Item No. 148A of the Second Schedule to the said Act as inserted by section 3 of this Act.

THE SCHEDULE.

(*See* section 3.)

Amendments to the Second Schedule to the Indian Tariff Act, 1894.

1. In Item No. 27, the words "or dry" shall be omitted.

2. In Item No. 28, for the entry in the second column the following entry shall be substituted, namely:—

"PORTER, cider and other fermented liquors except ale and beer."

3. In Item No. 30,—

(*a*) in sub-item (1), the word "rum" shall be omitted;

(*b*) in sub-item (2), for the brackets and words "(other than drugs and medicines)" the words ", not otherwise specified" shall be substituted; and

(*c*) sub-items (3) and (4) shall be omitted.

4. Item No. 36 shall be omitted.

5. In Item No. 41, sub-item (2) shall be omitted, and sub-item (3) shall be renumbered as sub-item (2).

6. In item No. 41B, after the word "SHOES" the words "not otherwise specified" shall be added.

7. In Item No. 42,—

(*a*) sub-item (1) shall be omitted;

(*b*) in sub-item (2), for the entry in the second column the following entry shall be substituted, namely:—

"(2) Barrels, whether single or double, for firearms, including gas and air guns, gas and air rifles, and gas and air pistols, not otherwise specified."; and

(*c*) sub-items (2) to (8) shall be renumbered as sub-items (1) to (7).

8. For Item No. 42A the following item shall be substituted, namely:—

"42A	MOTOR CYCLES and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof except such articles as are also adapted for use as parts and accessories of motor cars.	*Ad valorem*	20 per cent.

9. Item No. 43 with the heading thereto, Item No. 46C, and Items Nos. 60, 61 and 62 with the heading thereto shall be omitted.

10. In Item No. 65, for the words "excluding salted fish (*see* No. 27)", the words "not otherwise specified" shall be substituted.

11. Item No. 67 with the heading thereto shall be omitted.

12. In Item No. 69, for the words "all sorts, excluding Vinegar in casks (*see* No. 48)", the words "all sorts not otherwise specified; including also the following articles if canned or bottled, namely, bacon, ham, biscuits, cakes, butter, vegetable product, cheese, farinaceous and patent foods, ghee, isinglass, jams and jellies, lard, pickles, chutnies, sauces and condiments" shall be substituted.

13. Item No. 71 with the heading thereto, and Item No. 72 shall be omitted.

14. In Item No. 74, the brackets, words and figures "(*see* No. 10B)" shall be omitted.

15. For Item No. 75 the following item shall be substituted, namely:—

"75	All sorts of ANIMAL and MINERAL OILS not otherwise specified, and the following NATURAL ESSENTIAL OILS, namely, almond, bergamot, gajupatti, camphor, cloves, eucalyptus, lavender, lemon, ottorose and peppermint."

16. Item No. 82, and Item No. 85 with the heading thereto shall be omitted.

17. For Item No. 87 the following item shall be substituted, namely:—

"87	TRAMCARS, passenger lifts, and all other sorts of conveyances not otherwise specified and component parts and accesories thereof; also motor vans and motor lorries imported complete."

(The Schedule.)

18. For Item No. 88 the following item shall be substituted, namely:—

"88	The following CHEMICALS, DRUGS and MEDICINES, namely, acetic, carbolic, citric and oxalic acids, naphthalene, potassium chlorate and potassium cyanide, bicarbonate of soda, borax, sodium silicate, arsenic, calcium carbide, glycerine, ferrous sulphate, lead, magnesium and zinc compounds not otherwise specified, aloes, asafœtida, cocaine, sarsaparilla and storax."

19. For Items Nos. 89, 90, 90A, 90B and 91 the following items shall be substituted, namely:—

"89	The following HARDWARE, IRONMONGERY and TOOLS, namely, agricultural implements not otherwise specified, buckets of tinned or galvanised iron, and pruning knives.
90	The following ELECTRICAL INSTRUMENTS, APPARATUS and APPLIANCES, namely, telegraphic and telephonic instruments, apparatus and appliances not otherwise specified, flash lights, carbons, condensers, and bell apparatus; and switch-boards designed for use in circuits of less than ten *amperes* and at a pressure not exceeding 250 volts.
91	OPTICAL INSTRUMENTS, APPARATUS AND APPLIANCES."

20. In Item No. 92, the words " and paints and colours and painters' materials, all sorts " shall be omitted.

21. For Item No. 93 with the heading thereto the following item shall be substituted, namely:—

"93	The following PAINTS, COLOURS and PAINTERS' MATRIALS, namely, barytes, reduced dry red lead and white lead, reduced dry zinc white and moist zinc white, turpentine, turpentine substitute, and varnish not containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1899."

22. In Item No. 94, the words " earthenware, china and porcelain," shall be omitted.

23. After Item No. 94 the following item shall be inserted, namely:—

"94A	EARTHENWARE pipes and sanitary ware."

24. For Item No. 95 the following item shall be substituted, namely:—

"95	HIDES AND SKINS not otherwise specified, and the following LEATHER MANUFACTURES, namely, saddlery, harness, trunks and bags."

25. Item No. 96 with the heading thereto, and Item No. 97 with the heading thereto, shall be omitted.

26. In Item No. 98, after the word " specified " the words " including unwrought ingots, blocks and bars of aluminium, scrap copper, copper braziers and lead sheets for tea chests " shall be added.

27. Item No. 99 with the heading thereto shall be omitted.

28. In Item No. 100, for the words " Haberdashery and millinery, excluding articles made of silk or artificial silk and silk or artificial silk mixtures " the words " Towels not in the piece " shall be substituted;

and for the words "Woollen yarn, knitting wool, and other manufactures of wool, including felt" the words "Woollen blankets and rugs other than floor rugs" shall be substituted.

29. Item No. 102 shall be omitted.

30. For Item No. 103 the following item shall be substituted, namely:—

"103	The following BUILDING AND ENGINEERING MATERIALS, namely, bricks, chalk, lime and clay."

31. Item No. 105 and Item No. 106 shall be omitted.

32. In Item No. 108, after the word "MATTINGS" the words "not otherwise specified" shall be added.

33. After Item No. 108 the following item shall be inserted, namely:—

"108A	NEWSPAPERS, old, in bales and bags."

34. Item No. 110 and Item No. 111 shall be omitted.

35. In Item No. 113, for the words "PITCH, TAR AND DAMMER" the words "PITCH AND TAR" shall be substituted.

36. For Item No. 115 the following item shall be substituted, namely:—

"115	SLATE PENCILS."

37. After Item No. 116 the following item shall be inserted, namely:—

"117	STRAW BOARD, all sorts."

38. Item No. 119, Item No. 122 and Item No. 124 shall be omitted.

39. In Item No. 124A, after the word "SPICES" the words "when not unground" shall be inserted.

40. In Item No. 126, for the words "subject to the exemptions specified in No. 12, all articles other than those specified in entries Nos. 42, 86A and 141" the words "save where otherwise specified, all articles" shall be substituted; and the words "which are dutiable as hardware under No. 90" shall be omitted.

41. Item No. 128A shall be omitted.

42. For Item No. 129 the following item shall be substituted, namely:—

"129	ARTICLES, other than cutlery and surgical instruments, plated with gold or silver."

43. For Item No. 130 the following item shall be substituted, namely:—

"130	The following MUSICAL INSTRUMENTS, namely, complete organs and harmoniums and records for talking machines."

(The Schedule.)

44. Item No. 140, Item No. 141, and Item No. 141A with the heading thereto, shall be omitted.

45. With effect to the 31st day of March, 1934, for sub-item (*b*) of Item No. 148, the following sub-item shall be deemed to be substituted, namely:—

"(*b*) not fabricated, all sorts not otherwise specified—	
of British manufacture	Rs. 35 per ton.
not of British manufacture	Rs. 59 per ton."

46. With effect to the 31st day of March, 1934, after Item No. 148, the following item shall be deemed to be inserted, namely:—

"148A	IRON OR STEEL sheets (including cuttings, discs and circles) under ⅛ inch thick, galvanized, not fabricated—	
	of British manufacture—	
	(i) if made from Indian sheet bar	Rs. 30 per ton.
	(ii) if made from sheet bar other than Indian sheet bar.	Rs. 53 per ton.
	not of British manufacture	Rs. 83 per ton."

47. After Part VII the following Parts shall be inserted, namely:—

"PART VIII.

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*

No.	Names of Articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	I.—Food, Drink and Tobacco.			
	FISH.			
161	FISH, UNSALTED, dry	30 per cent.	..	20 per cent.
	FRUITS AND VEGETABLES.			
162	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved, not otherwise specified, including vanilla beans.	30 per cent.	..	20 per cent.
	PROVISIONS AND OILMAN'S STORES.			
163	COCOA AND CHOCOLATE other than confectionery.	30 per cent.	20 per cent.	..

(The Schedule.)

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	I.—Food, Drink and Tobacco—contd.			
	PROVISIONS AND OILMAN'S STORES —*contd.*			
164	COFFEE, canned or bottled . . .	30 per cent.	20 per cent.	20 per cent.
165	FISH, canned	30 per cent.	20 per cent.	20 per cent.
166	FRUIT JUICES	30 per cent.	20 per cent.	20 per cent.
167	FRUITS AND VEGETABLES, canned or bottled.	30 per cent.	20 per cent.	20 per cent.
168	MILK, condensed or preserved, including milk cream.	30 per cent.	20 per cent.	..
169	SAGO (excluding Sago flour) and TAPIOCA .	30 per cent.	..	20 per cent.
170	CANNED OR BOTTLED PROVISIONS, not otherwise specified.	30 per cent.	20 per cent.	..
	II.—Raw materials and produce and articles mainly unmanufactured.			
	GUMS AND RESINS.			
171	GUMS, Arabic. Benjamin (ras and cowrie) and Dammer (including unrefined batu) and rosin.	30 per cent.	..	20 per cent.
	OILS.			
172	The following NATURAL ESSENTIAL OILS, namely, citronella, cinnamon, and cinnamon leaf.	30 per cent.	20 per cent.	20 per cent.
173	NATURAL ESSENTIAL OILS, all sorts not otherwise specified.	30 per cent.	20 per cent.	..
174	ESSENTIAL OILS, synthetic . . .	30 per cent.	20 per cent.	..
175	FISH OIL including whale oil . . .	30 per cent.	20 per cent.	..

(The Schedule.)

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of Articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	II.—Raw materials and produce and articles mainly unmanufactured—contd.			
	SEEDS.			
176	OILSEEDS, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	30 per cent.	..	20 per cent.
	TEXTILE MATERIALS.			
177	SISAL and ALOE fibre	30 per cent.	..	20 per cent.
	WAX.			
178	BEESWAX	30 per cent.	..	20 per cent.
	MISCELLANEOUS.			
179	IVORY, unmanufactured	30 per cent.	..	20 per cent.
	III.—Articles wholly or mainly manufactured.			
	APPAREL.			
180	APPAREL, including hats, caps, bonnets and hatters' ware, second-hand clothing, drapery and uniforms and accoutrements, excluding articles made of wool, articles made of gold or silver thread or lametta, articles made of silk or silk mixtures or of artificial silk or artificial silk mixtures, uniforms and accoutrements exempted from duty under No. 11 and boots and shoes; excluding also waterproofed clothing.	30 per cent.	20 per cent.	20 per cent.
	CHEMICALS, DRUGS AND MEDICINES.			
181	CHEMICALS, DRUGS AND MEDICINES, all sorts not otherwise specified.	30 per cent.	20 per cent.	20 per cent.

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	III.—Articles wholly or mainly manufactured—contd.			
	CONVEYANCES.			
182	CARRIAGES AND CARTS which are not mechanically propelled, not otherwise specified, and CYCLES (other than motor cycles) imported entire or in sections and parts and accessories thereof; excluding rubber tyres and tubes.	30 per cent.	20 per cent.	..
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.			
183	CUTLERY, all sorts not otherwise specified.	30 per cent.	20 per cent.	..
184	DOMESTIC REFRIGERATORS . . .	30 per cent.	20 per cent.	..
185	HARDWARE, IRONMONGERY AND OOLS, all sorts not otherwise specified, excluding machine tools and agricultural implements.	30 per cent.	20 per cent.	..
186	The following ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES, namely :— (*a*) ELECTRICAL CONTROL GEAR AND TRANSMISSION GEAR, namely, switches (excluding switch-boards), fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of less than ten *amperes* and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts; bare or insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core, has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity; and line insulators, including also cleats, connectors leading-in tubes and the like, of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof;	30 per cent.	20 per cent.	..

(The Schedule.)

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of Articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
[1	2	3	4	5
	III.—Articles wholly or mainly manufactured—contd.			
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS—*contd.*			
	(*b*) all other sorts of ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES not otherwise specified, excluding telegraphic and telephonic.			
187	INSTRUMENTS, APPARATUS AND APPLIANCES other than electrical, all sorts not otherwise specified, including photographic, scientific, philosophical and surgical.	30 per cent.	20 per cent.	..
	DYES AND COLOURS.			
188	Cutch and gambier, all sorts . . .	30 per cent.	..	20 per cent.
189	PAINTS, COLOURS AND PAINTER'S MATERIALS, all sorts not otherwise specified, including paints, solutions and compositions containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1899.	30 per cent.	20 per cent.	..
190	PLUMBAGO and GRAPHITE . . .	30 per cent	..	20 per cent.
	EARTHENWARE AND PORCELAIN.			
91	EARTHENWARE, CHINA AND PORCELAIN, all sorts not otherwise specified.	30 per cent.	20 per cent.	..
	FURNITURE AND CABINETWARE			
192	FURNITURE AND CABINETWARE of all materials, excluding mouldings.	30 per cent.	20 per cent.	..

(*The Schedule.*)

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of Articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	III.—Articles wholly or mainly manufactured—contd.			
	LEATHER.			
193	SKINS, tanned or dressed, unwrought LEATHER, LEATHER CLOTH including artificial leather, and other MANUFACTURES OF LEATHER not otherwise specified.	30 per cent.	20 per cent.	..
	MACHINERY.			
194	MACHINERY and component parts thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified, and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one-quarter of one Brake-horse power.	30 per cent.	20 per cent.	..
	METALS—IRON AND STEEL.			
195	All sorts of IRON AND STEEL AND MANUFACTURES thereof not otherwise specified.	30 per cent.	20 per cent.	..
	METALS OTHER THAN IRON AND STEEL.			
196	METALS and manufactures thereof namely :— (*a*) *Aluminium*—circles, sheets and other manufactures not otherwise specified. (*b*) *Brass, bronze* and similar alloys wrought, and manufactures thereof not otherwise specified. (*c*) *Copper wrought*, and manufactures of copper, all sorts not otherwise specified. (*d*) *German silver* including nickel silver. (*e*) *Lead wrought*—the following articles, namely, pipes and tubes and sheets other than sheets for tea chests. (*f*) *Zinc or spelter wrought* or manufactured not otherwise specified.	30 per cent.	20 per cent.	..

(The Schedule.)

PART VIII—*contd.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—contd.

No.	Names of articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	III.—Articles wholly or mainly manufactured—contd.			
	PAPER, PASTEBOARD AND STATIONERY.			
197	PAPER AND ARTICLES MADE OF PAPER AND PAPIER MACHÉ; PASTEBOARD, MILL-BOARD AND CARD-BOARD, all sorts other than strawboard; and STATIONERY including drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form; including also waste paper but excluding paper and stationery otherwise specified.	30 per cent.	20 per cent.	..
	YARNS AND TEXTILE FABRICS.			
198	HABERDASHERY AND MILLINERY, all sorts, including lace and embroidery, but excluding towels not in the piece and articles made of wool or of silk or artificial silk or of silk or artificial silk mixtures.	30 per cent.	20 per cent.	..
199	WOOLLEN YARN for weaving and KNITTING WOOL.	30 per cent.	20 per cent.	..
	MISCELLANEOUS.			
200	ASBESTOS MANUFACTURES, not otherwise specified	30 per cent.	20 per cent.	..
201	BRUSHES, all sorts	30 per cent.	20 per cent.	..

(The Schedule.)

PART VIII—*concld.*

Articles which are liable to duty at 30 per cent. ad valorem *or to preferential duty at 20 per cent.*—concld.

No.	Names of articles.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
			The United Kingdom.	A British Colony.
1	2	3	4	5
	III.—Articles wholly or mainly manufactured—concld.			
	MISCELLANEOUS—*contd.*			
202	BUILDING AND ENGINEERING MATERIALS, all sorts not of iron, steel or wood not otherwise specified, including CEMENT (excluding Portland cement other than white Portland cement), tiles other than glass tiles, and firebricks not being component parts of any article included in No. 59A or No. 63.	30 per cent.	20 per cent.	..
203	BUTTONS, metal	30 per cent.	20 per cent.	..
204	COIR fibre, coir yarn and coir mats and matting.	30 per cent.	..	20 per cent.
205	CORDAGE, ROPE AND TWINE of vegetable fibre other than jute and cotton, not otherwise specified.	30 per cent.	20 per cent.	..
206	CORK MANUFACTURES not otherwise specified	30 per cent.	20 per cent.	..
207	GLUE, all sorts other than clarified liquid glue.	30 per cent.	20 per cent.	..
208	OIL CLOTH AND FLOOR CLOTH . . .	30 per cent.	20 per cent.	..
209	PACKING—engine and boiler—all sorts not otherwise specified.	30 per cent.	20 per cent.	..
210	RUBBER TYRES AND TUBES and other MANUFACTURES OF RUBBER not otherwise specified, excluding apparel and boots and shoes.	30 per cent.	20 per cent.	..
211	TOILET REQUISITES not otherwise specified .	30 per cent.	20 per cent.	..
212	UMBRELLAS including parasols and sunshades, and fittings therefor.	30 per cent.	20 per cent.	..

(The Schedule.)

PART IX.

Articles which are liable to duty at special rates or to preferential duty at lower rates.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	I.—Food, Drink and Tobacco.				
213	CONFECTIONERY . .	*Ad valorem*	50 per cent.	40 per cent.	..
	FISH.		Rs. A. P.	Rs. A. P.	Rs. A. P.
214	FISH, salted, dry . .	Cwt.	3 8 0	..	1 8 0
	LIQUORS.				
215	ALE AND BEER . .	In barrels or other containers containing 27 oz. or more per Imperial gallon.	1 2 0	0 14 0	..
		In bottles containing less than 27 oz. but not less than 20 oz., per bottle.	0 3 0	0 2 4	..
		In bottles containing less than 13½ oz. but not less than 10 oz., per bottle.	0 1 6	0 1 2	..
		In bottles containing less than 6¾ oz. but not less than 5 oz., per bottle.	0 0 9	0 0 7	..
		In other containers, per Imperial gallon.	1 8 0	1 2 8	..

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	I.—Food, Drink and Tobacco—contd.				
	LIQUORS—*contd.*				
216	SPIRITS—		Rs. A. P.	Rs. A. P.	Rs. A. P.
	(1) Bitters—				
	(i) entered in such a manner as to indicate that the strength is not to be tested.	Imperial gallon.	50 0 0	..	45 0 0
	(ii) not so entered .	Imperial gallon of the strength of London proof.	37 8 0	..	33 12 0
	(2) Drugs and medicines containing spirit—				
	(i) entered in such a manner as to indicate that the strength is not to be tested.	Imperial gallon.	40 0 0	36 0 0	36 0 0
	(ii) not so entered .	Imperial gallon of the strength of London proof.	29 0 0	26 0 0	26 0 0
	(3) Perfumed spirits .	Imperial gallon.	60 0 0	52 8 0	..
	(4) Rum . . .	Imperial gallon of the strength of London proof.	37 8 0	..	33 12 0
	Provided that— (*a*) on any article chargeable under this item with the lower rate of duty, the duty levied shall in no case be less than 20 per cent. *ad valorem*, and on any article chargeable under this item with the higher rate of duty, the duty levied shall in no case be less than 30 per cent. *ad valorem*;				

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	I.—Food, Drink and Tobacco—concld.				
	LIQUORS—*concld.*				
216—*contd.*	(*b*) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.				
	SPICES.				
217	The following UNGROUND SPICES, namely :— Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper.	*Ad valorem*	45 per cent.	..	37½ per cent.
218	The following UNGROUND SPICES, namely :— Chillies, ginger and mace .	*Ad valorem*	30 per cent.	..	22½ per cent.
	TEA.				
219	TEA	Pound .	5 annas.	..	3 annas.
	OTHER FOOD AND DRINK.				
220	COFFEE not otherwise specified.	*Ad valorem*	25 per cent., *plus* one anna per pound.	..	25 per cent.
	TOBACCO.				
221	TOBACCO, unmanufactured	Pound .	Rs. 2.	..	Rs. 1-8-0

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.[1]	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	II.—Raw materials and produce and articles mainly unmanufactured.				
	OILS.				
222	MINERAL OIL which has its flashing point at or above two hundred degrees of the Fahrenheit thermometer by Abel's close test and is such as is not ordinarily used for any other purpose than for lubrication.	Imperial gallon.	Two annas and six pies.	Six pies .	..
223	The following VEGETABLE NON-ESSENTIAL OILS, namely, coconut, groundnut, and linseed.	*Ad valorem*	35 per cent.	..	25 per cent.
224	VEGETABLE NON-ESSENTIAL OILS not otherwise specified.	*Ad valorem*	35 per cent.	25 per cent.	25 per cent.
	III.—Articles wholly or mainly manufactured.				
	APPAREL.				
225	BOOTS AND SHOES composed mainly of leather.	*Ad valorem*	30 per cent. or 5 annas per pair, whichever is higher.	20 per cent. or 5 annas per pair, whichever is higher.	..
	ARMS, AMMUNITION AND MILITARY STORES.				
226	CARTRIDGE CASES, filled and empty.	*Ad valorem*	50 per cent.	40 per cent.	..

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—contd.				
	ARMS, AMMUNITION AND MILITARY STORES—*contd.*				
227	Subject to the exemptions specified in No. 12—FIREARMS, including gas and air guns, gas and air rifles and gas and air pistols, not otherwise specified, but excluding parts and accessories thereof.	Each	Rs. 18-12-0 *plus* 10 per cent. *ad valorem*, or 50 per cent. *ad valorem*, whichever is higher.	Rs. 18-12-0, or 40 per cent. *ad valorem*, whichever is higher.	..
	CHEMICALS, DRUGS AND MEDICINES.				
228	The following CHEMICALS, namely, cadmium sulphide, cobalt oxide, selenium, uranium oxide and zinc oxide.	*Ad valorem*	25 per cent.	15 per cent.	15 per cent.
	CONVEYANCES.				
229	MOTOR CARS including taxi-cabs and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in Nos. 42A and 231 shall be dutiable at the rate of duty specified for such articles.	*Ad valorem*	37½ per cent.	30 per cent.	..

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—contd.				
	CONVEYANCES—*contd.*				
230	MOTOR OMNIBUSES; CHASSIS OF MOTOR OMNIBUSES; MOTOR VANS and MOTOR LORRIES; and parts of mechanically propelled vehicles and accessories not otherwise specified, excluding rubber tyres and tubes and such parts and accessories of motor vehicles included in this item as are also adapted for use as parts and accessories of motor cars.	*Ad valorem*	25 per cent.	17½ per cent.	..
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.				
231	CUTLERY PLATED with gold or silver.	*Ad valorem*	50 per cent.	40 per cent.	..
232	ELECTRIC LIGHTING BULBS	*Ad valorem*	50 per cent.	40 per cent.	..
233	MUSICAL INSTRUMENTS and parts thereof, all sorts not otherwise specified.	*Ad valorem*	50 per cent.	40 per cent.	..
234	WIRELESS RECEPTION INSTRUMENTS AND APPARATUS and component parts thereof, including all electric valves, amplifiers and loud speakers which are not specially designed for purposes other than wireless reception or are not original parts of and imported along with instruments or apparatus so designed.	*Ad valorem*	50 per cent.	40 per cent.	..

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—contd.				
	METALS—IRON AND STEEL.				
235	IRON ALLOYS. IRON angle, channel and tee not otherwise specified. IRON bar and rod not otherwise specified. IRON pig. IRON rice bowls.	*Ad valorem*	20 per cent.	10 per cent.	..
236	Iron or steel ANCHORS AND CABLES. Iron or steel hoops and strips. Iron or steel nails and washers, all sorts not otherwise specified. Iron or steel pipes, and tubes; also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like, excluding pipes, tubes and fittings therefor otherwise specified. Iron or steel RAILWAY TRACK MATERIALS not otherwise specified, including bearing plates, cast iron sleepers and lever boxes. Iron or steel TRAMWAY TRACK MATERIALS not otherwise specified, including rails, fishplates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks.	*Ad valorem*	20 per cent.	10 per cent.	..

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—contd.				
	METALS—IRON AND STEEL—*contd.*				
236—*contd.*	Iron or steel SHEETS (including cuttings, discs and circles) under ⅛ inch thick, whether fabricated or not, if coated with metals other than tin or zinc.				
	Iron or steel PLATES AND SHEETS (including cuttings, discs and circles) not under ⅛ inch thick not otherwise specified, whether fabricated or not.				
	Iron or steel BARBED OR STRANDED FENCING-WIRE AND WIRE ROPE.				
	Iron or steel (other than bar or rod) specially designed for the reinforcement of concrete.				
	Iron or steel EXPANDED METAL.				
237	STEEL, angle and tee if galvanized, tinned or lead-coated.	*Ad valorem*	20 per cent.	10 per cent.	..
	STEEL (other than bars) alloys, crucibles, shear, blister and tub.				
	STEEL (other than bars) made for springs and cutting tools by any process.				
	STEEL ingots, blooms and billets, and slabs of a thickness of 1½ inches or more.				
	STEEL bar and rod, the following kinds—				
	(*a*) shapes specially designed for the reinforcement of concrete, if the smallest dimension is under ½ inch;				

(The Schedule.)

PART IX—*contd.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—contd.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—contd.				
	METALS—IRON AND STEEL—*concld.*				
237—*contd.*	(*b*) all shapes and sizes, if— (i) of alloy, crucible, shear, blister or tub steel, or (ii) galvanized or coated with other metals, or (iii) planished or polished including bright steel shafting; (*c*) other qualities, if of any of the following shapes and sizes— (i) rounds not over $\frac{7}{16}$ inch diameter, (ii) squares not over $\frac{7}{16}$ inch side. (iii) flats, if under 1 inch wide and not over $\frac{1}{8}$ inch thick, (iv) flats not under 8 inches wide and not over $\frac{1}{2}$ inch thick, (v) ovals, if the dimension of the major axis is not less than twice that of the minor axis, (vi) all other shapes, any size.				
	TEXTILE FABRICS.				
238	WOOLLEN carpets, floor rugs, hosiery, piece-goods, shawls and other manufactures of WOOL not otherwise specified, including felt.	*Ad valorem*	35 per cent.	25 per cent.	...

(*The Schedule.*)

PART IX—*concld.*

Articles which are liable to duty at special rates or to preferential duty at lower rates—concld.

No.	Names of articles.	Unit or method of assessment.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—	
				The United Kingdom.	A British Colony.
1	2	3	4	5	6
	III.—Articles wholly or mainly manufactured—concld.				
	MISCELLANEOUS.				
239	ASPHALT	*Ad valorem*	25 per cent.	..	15 per cent.
240	CINEMATOGRAPH FILMS not exposed.	*Ad valorem*	25 per cent.	15 per cent.	..
241	PORTLAND CEMENT excluding white Portland cement.	Ton.	Rs. 18-4-0	Rs. 13-12-0	..
242	SOAP, toilet	*Ad valorem*	35 per cent.	25 per cent.	..
243	SMOKERS' REQUISITES excluding tobacco and matches.	*Ad valorem*	50 per cent.	40 per cent.	..
244	TOYS, games, playing cards and requisites for games and sports, bird shot, toy cannons, air guns and air pistols for the time being excluded in any part of British India from the operation of all the prohibitions and directions contained in the Indian Arms Act, 1878, and bows and arrows.	*Ad valorem*	50 per cent.	40 per cent.	..
	MISCELLANEOUS AND UNCLASSIFIED.				
245	BETELNUTS	*Ad valorem*	45 per cent.	..	37½ per cent.

PART II.

ACTS MADE BY THE GOVERNOR GENERAL UNDER THE PROVISIONS OF SECTION 67B OF THE GOVERNMENT OF INDIA ACT.

THE INDIAN FINANCE ACT, 1931.[1]

[*30th March, 1931.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to vary the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917, to fix rates of income-tax and super-tax, to vary the excise duty on kerosene leviable under the Indian Finance Act, 1922, further to amend the Indian Paper Currency Act, 1923, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to vary the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917, to fix rates of income-tax and super-tax, to vary the excise duty on kerosene leviable under the Indian Finance Act, 1922, further to amend the Indian Paper Currency Act, 1923, and to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930; It is hereby enacted as follows:—

VIII of 1894. VI of 1898. II of 1917. XII of 1922. X of 1923. XVIII of 1930.

1. (*1*) This Act may be called the Indian Finance Act, 1931. **Short title and extent.**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

XII of 1882.

[2]**2.** The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed **Fixation of salt duty.**

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 85.

[2] The operation of this section has been extended to the 31st March, 1933, by s. 2 of the Indian Finance (Supplementary and Extending) Act, 1931.

as if, for the year beginning on the 1st day of April, 1931, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Amendment of Schedule II to Act VIII of 1894.

[1]**3.** The amendments specified in the First Schedule to this Act shall be made in Schedule II to the Indian Tariff Act, 1894. VIII of 1894.

Additional customs duties.

[1]**4.**[2] In addition to the duties payable under the Indian Tariff Act, 1894, and any other Act for the time being in force, there shall be levied and collected in every port to which that Act applies additional duties on the importation of articles specified in the first and second columns of the Second Schedule at the rates obtained by the method shown against them in the third column thereof. VIII of 1894.

Inland postage rates.

[3]**5.** For the year beginning on the 1st day of April, 1931, the schedule contained in the Third Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act: VI of 1898.

[4][Provided that from a date to be appointed in this behalf by the Governor General in Council, by notification in the Gazette of India, each rate specified in the said Schedule in respect of letters and single postcards shall be increased by one quarter of an anna and the rate specified in respect of reply postcards shall be increased by half an anna.]

Excise duty on motor spirit.

[1]**6.** In sub-section (*1*) of section 3 of the Motor Spirit (Duties) Act, 1917, for the words "six annas" the words "eight annas" shall be substituted. II of 1917.

Income-tax and super-tax.

[3]**7.** (*1*) Income-tax for the year beginning on the 1st day of April, 1931, shall be charged at the rates specified in Part I of the Fourth Schedule.

(*2*) The rates of super-tax for the year beginning on the 1st day of April, 1931, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Fourth Schedule. XI of 1922.

(*3*) For the purposes of the Fourth Schedule, "total income" means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

---

[1] This section came into effect on 1st March, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1918 (XVI of 1918).

[2] For provisions barring the operation of this section in respect of certain articles *see* s. 4 (*1*) of the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932 (25 of 1932).

[3] The operation of this section was extended to the 31st March, 1933, by s. 2 of the Indian Finance (Supplementary and Extending) Act, 1931.

[4] This proviso was added by s. 6, *ibid.*

XII of 1922. [1]**8.** In the proviso to section 5 of the Indian Finance Act, 1922, for the words " one anna and six pies " the words " two annas and three pies " shall be substituted. **Excise duty on kerosene.**

X of 1923. **9.** In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures " 1931 " the figures " 1932 " shall be substituted. **Amendment of section 19, Act X of 1923.**

XVIII of 1930. [1]**10.** In sub-section (*1*) of section 3 of the Silver (Excise Duty) Act, 1930, for the words " four annas " the words " six annas " shall be substituted. **Excise duty on silver.**

SCHEDULE I.

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

[See section 3.]

1. For Items Nos. 28 to 33 inclusive the following Items shall be substituted, namely:—

			Rs.	A.
"28	ALE, beer, porter, cider and other fermented liquors.	In barrels or other containers containing 27 oz. or more, per imperial gallon.	0	12
		In bottles containing less than 27 oz. but not less than 20 oz., per bottle.	0	2
		In bottles containing less than 13½ oz. but not less than 10 oz., per bottle.	0	1
		In bottles containing less than 6¾ oz. but not less than 5 oz., per bottle.	0	½
		In other containers, per Imperial gallon.	1	0
29	DENATURED SPIRIT . . .	*Ad valorem*	7½ per cent.	
30	SPIRITS (other than denatured spirit)—			
	(1) Brandy, gin, rum, whisky, and other sorts of spirits not otherwise specified, including wines containing more than 42 per cent. of proof spirit.	Imperial gallon of the strength of London proof.	30	0
	(2) Liqueurs, cordials, mixtures and other preparations containing spirit (other than drugs and medicines)—			
	(*i*) entered in such a manner as to indicate that the strength is not to be tested:	Imperial gallon	40	0
	(*ii*) not so entered . .	Imperial gallon of the strength of London proof.	30	0

[1] This section came into effect on 1st March, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1918 (XVI of 1918).

SCHEDULE I—*contd.*

Amendments to be made in Schedule II to the Indian Tariff Act, 1894—contd.

			Rs. A.
30	SPIRITS (other than denatured spirit)—*contd.*		
	(3) Drugs and medicines containing spirit—		
	(*i*) entered in such a manner as to indicate that the strength is not to be tested :	Imperial gallon	30 0
	(*ii*) not so entered . .	Imperial gallon of the strength of London proof.	21 14
	(4) Perfumed spirits . . .	Imperial gallon	48 0
	Provided that— (*a*) the duty on any article included in this Item shall in no case be less than the duty which would be charged if the article were included in Part V of this Schedule : (*b*) where the unit of assessment is the imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.		
31	WINES, not containing more than 42 per cent. of proof spirit—		
	(1) champagne and other sparkling wines.	Imperial gallon	10 8
	(2) other sorts	Imperial gallon	6 0 "

2. For Item No. 34 the following shall be substituted, namely:—

			Rs. A.
"34	SUGAR, excluding confectionery (*see* No. 124)—		
	(1) Sugar, crystallised or soft, 23 Dutch Standard and above.	Cwt.	7 4
	(2) Sugar, crystallised or soft, inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard.	Cwt.	6 12
	(3) Sugar, below 8 Dutch Standard, and sugar candy.	*Ad valorem*	25 per cent. *plus* two rupees and twelve annas $\frac{1}{2}$ per cwt.
	(4) Molasses	*Ad valorem*	25 per cent."

3. In Item No. 37A, in the Note thereto, for the words " amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (*a*) of the said section shall be Rs. 7 per thousand ", the words " deduction allowed under clause (*a*) of that section shall be calculated in all cases as if the cigarettes were classified under sub-item (*a*)" shall be substituted.

SCHEDULE I—*concld.*

4. In Item No. 43BB, relating to silver bullion and coin, for the words " Four annas " in the fourth column, the words " Six annas " shall be substituted.

5. In Part V, the heading " SPICES " and Item No. 70 shall be omitted.

6. In Item No. 105, after the word " FILMS " the words ", not exposed " shall be added.

7. After Item No. 124 and under the head " *I.—Food, Drink and Tobacco,*" the following item shall be inserted, namely:—

'124A	The following SPICES, namely :— Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper."

8. After Item No. 134, the following item shall be inserted, namely:—

"134A	CINEMATOGRAPH FILMS, exposed."

9. In Part VI, after Item No. 141, the following heading and Item shall be inserted, namely:—

" *III.—Miscellaneous and unclassified.*

141A	BETELNUTS."

SCHEDULE II.

Articles liable to an additional duty of customs, and additional duties leviable thereon.

[See section 4.]

References to Part and No. of Item in Schedule II to the Indian Tariff Act, 1894.	Description of articles liable to additional duty.	Rate of additional duty or method of obtaining it.
PART II.		
27 . .	FISH, SALTED, wet or dry . .	5 per cent. *ad valorem.*
37 . .	CIGARS	15 per cent. *ad valorem.*
37A . .	CIGARETTES	Re. 1 annas 8 per thousand.
38 . .	All other sorts of TOBACCO manufactured.	Twelve annas per pound.

SCHEDULE II—*contd.*

Articles liable to an additional duty of customs, and additional duties leviable thereon—contd.

References to Part and No. of Item in Schedule II to the Indian Tariff Act, 1894.	Description of articles liable to additional duty.	Rate of additional duty or method of obtaining it.
PART II—*contd.*		
40 . .	KEROSENE; also any other mineral oil included in Item No. 40.	9 pies per imperial gallon.
40A . .	MOTOR SPIRIT	2 annas per imperial gallon.
41 . .	MINERAL OIL—	
	(1) ordinarily used for the batching of jute or other fibre, as specified in sub-item (1) of Item No. 41;	Rs. 2 annas 8 per ton.
	(2) not ordinarily used for any other purpose than for lubrication, as specified in sub-item (2) of Item No. 41;	4 pies per gallon.
	(3) not ordinarily used except as fuel or for some sanitary or hygienic purposes, as specified in sub-item (3) of Item No. 41.	2½ per cent. *ad valorem*.
42 . .	All ARMS, and other articles included in Item No. 42.	10 per cent. *ad valorem*.
42A . .	MOTOR CARS, motor cycles and other articles included in Item No. 42A.	10 per cent. *ad valorem*.
43C . .	ARTIFICIAL SILK YARN and THREAD.	2½ per cent. *ad valorem*.
45A . .	SILK MIXTURES, all sorts included in Item No. 45A.	7½ per cent. *ad valorem*.
46C . .	PORTLAND CEMENT (excluding white portland cement).	Rs. 2 per ton.
PART IV.		
Nos. 58 to 64 inclusive	[1][All] articles for the time being included in Part IV of the Second Schedule, except— (1) DYES and COLOURS comprised in Item No. 58A, and (2) MACHINERY, comprised in Items Nos. 59A, 59B, 59C and 59D.]	2½ per cent. *ad valorem*.

[1] These words were substituted by s. 3 and Sch. I of the Indian Finance (Supplementary and Extending) Act, 1931.

SCHEDULE II—*concld.*

Articles liable to an additional duty of customs, and additional duties leviable thereon—concld.

References to Part and No. of Item in Schedule II to the Indian Tariff Act, 1894.	Description of articles liable to additional duty.	Rate of additional duty or method of obtaining it.
PART V.		
Nos. 65 to 123 inclusive.	All articles for the time being included in Part V of the Second Schedule, excluding "raw hemp" comprised in Item No. 78.	5 per cent. *ad valorem*.
PART VI.		
Nos. 124 to 141 inclusive, except Nos. 124A and 134A.	All articles for the time being included in Part VI of the Second Schedule, except— (1) the following SPICES, namely—Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper (*see* No. 124A); (2) CINEMATOGRAPH FILMS, exposed (*see* No. 134A); and (3) BETELNUTS (*see* No. 141A).	10 per cent. *ad valorem*.
PART VII.		
[1]156A .	COTTON PIECE-GOODS—all sorts included in Item No. 156A.	The figures for the rates of the *ad valorem* duties shall be deemed to be increased by 5 in each case.[3]

SCHEDULE III.[2]

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 5.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[See section 7.]

Letters.

For a weight not exceeding two and a half tolas . One anna.[3]

For every two and a half tolas, or fraction thereof, exceeding two and a half tolas One anna.[3]

[1] Since re-numbered "158" by s. 2 and Sch. of the Sugar Industry (Protection) Act, 1932 (13 of 1932).

[2] The operation of this Schedule has been extended to the 31st March, 1933, by s. 2 of the Indian Finance (Supplementary and Extending) Act, 1931.

[3] For the increase of rate, *see* the proviso to s. 5, *supra*.

SCHEDULE III—*contd.*

Schedule to be inserted in the Indian Post Office Act, 1898—contd.

Postcards.

Single	Half an anna.[1]
Reply	One anna.[1]

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof	Half an anna.

Registered Newspapers.

For a weight not exceeding eight tolas	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas.	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas.	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas.	Four annas.
For every forty tolas or fraction thereof, exceeding forty tolas.	Four annas."

SCHEDULE IV.[2]

[See section 7.]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) [3][When the total income is Rs. 1,000 or upwards but is less than Rs. 2,000.	Four pies in the rupee.]
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Six pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Nine pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000.	One anna in the rupee.
(5) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000.	One anna and four pies in the rupee.
(6) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna and seven pies in the rupee.
(7) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and eleven pies in the rupee.
(8) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000.	Two annas and one pie in the rupee.
(9) When the total income is Rs. 1,00,000 or upwards.	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income.	Two annas and two pies in the rupee.

[1] For the increase of rate, *see* the proviso to s. 5, *supra*.

[2] The operation of this Schedule has been extended to the 31st March, 1933, by s. 2 of the Indian Finance (Supplementary and Extending) Act, 1931, and the rates of income-tax and super-tax increased by one-fourth of the respective amount with effect from the 1st April, 1932, *see* s. 9, *ibid*.

[3] This item was substituted, subject to proviso and adaptations, by s. 7, *ibid*.

SCHEDULE IV—*contd.*

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) In the case of every company—	
(*a*) in respect of the first twenty thousand rupees of such excess.	*Nil.*
(*b*) for every rupee of the remainder of such excess.	One anna in the rupee.
(2) (*a*) in the case of every Hindu undivided family—	
(*i*) in respect of the first forty-five thousand rupees of such excess.	*Nil.*
(*ii*) for every rupee of the next twenty-five thousand rupees of such excess.	One anna and three pies in the rupee.
(*b*) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the first twenty thousand rupees of such excess.	Nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess.	One anna and three pies in the rupee.
(*c*) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the next fifty thousand rupees of such excess.	One anna and nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess.	Two annas and three pies in the rupee.
(*iii*) for every rupee of the next fifty thousand rupees of such excess.	Two annas and nine pies in the rupee.
(*iv*) for every rupee of the next fifty thousand rupees of such excess.	Three annas and three pies in the rupee.
(*v*) for every rupee of the next fifty thousand rupees of such excess.	Three annas and nine pies in the rupee.
(*vi*) for every rupee of the next fifty thousand rupees of such excess.	Four annas and three pies in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess.	Four annas and nine pies in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess.	Five annas and three pies in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess.	Five annas and nine pies in the rupee.
(*x*) for every rupee of the remainder of such excess.	Six annas and three pies in the rupee.

THE INDIAN FINANCE (SUPPLEMENTARY AND EXTENDING) ACT, 1931.[1]

[*28th November, 1931.*]

An Act to supplement the Indian Finance Act, 1931, and to extend the operation of its temporary provisions.

WHEREAS it is expedient to supplement the Indian Finance Act, 1931, and to extend the operation of its temporary provisions to the financial year beginning on the 1st April, 1932; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Finance (Supplementary and Extending) Act, 1931.

Extension to the next financial year of the operation of the temporary provisions of the Indian Finance Act, 1931.

2. The operation of section 2 of the Indian Finance Act, 1931, fixing the rate of salt duty for the year beginning on the 1st April, 1931, of section 5 of the said Act and the Third Schedule thereto as amended by section 6 of this Act, fixing inland postage rates for the said year, and of section 7 of the said Act and the Fourth Schedule thereto as amended by sections 7, 8 and 9 of this Act, fixing rates of income-tax and super-tax for the said year, is hereby extended to the 31st day of March, 1933.

Amendment of the Second Schedule to the Indian Tariff Act, 1894, and the Indian Finance Act, 1931.

[2]**3.** (*1*) The amendments specified in Part I of Schedule I to this Act shall be made in Schedule II to the Indian Tariff Act, 1894. VIII of 1894.

(*2*) The amendment specified in Part II of Schedule I to this Act shall be made in Schedule II to the Indian Finance Act, 1931.

Additional customs duties.

[2]**4.** [3]Where any goods chargeable with a duty of customs under Part II, Part IV, Part V, Part VI or Part VII of Schedule II to the Indian Tariff Act, 1894, as amended by section 3, or under any of the VIII of 1894. said Parts read with any other enactment or with any notification of the Governor General in Council for the time being in force, are assessed to duty, there shall be levied and collected, as an addition to and in the same manner as the total amount so chargeable, a sum equal to one-quarter of such total amount:

Provided that salt chargeable with duty under Item No. 35 of the said Part II shall not be liable to two such additions of duty:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 126.

[2] This section came into effect on 30th September, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

[3] For provisions barring the operation of this section in respect of certain articles, *see* s. 3 of Act 5 of 1932, s. 3 of Act 15 of 1932 and s. 4 (*2*) of Act 25 of 1932.

Provided further that such addition of duty shall not be levied and collected on—

(*a*) raw cotton, comprised in Item No. 41A.

(*b*) dyes and colours, comprised in Item No. 58A, or

(*c*) machinery, comprised in Items Nos. 59A, 59B, 59C and 59D,

of the said Schedule as amended by section 3.

Additional excise and other duties.

[1]**5.** Where any salt, motor spirit, kerosene or silver chargeable with duty under the Indian Salt Act, 1882, or under the Motor Spirit (Duties) Act, 1917, or under the Indian Finance Act, 1922, or under the Silver (Excise Duty) Act, 1930, or under any of the said Acts read with any other enactment or with any notification of the Governor General in Council for the time being in force, is assessed to duty, there shall be levied and collected, as an addition to and in the same manner as the total amount so chargeable, a sum equal to one quarter of such total amount.

XII of 1882. II of 1917. XII of 1922. XVIII of 1930.

Increase of certain inland postage rates.

6. In section 5 of the Indian Finance Act, 1931, the following proviso shall be added, namely:—

"Provided that from a date to be appointed in this behalf by the Governor General in Council, by notification in the Gazette of India, each rate specified in the said Schedule in respect of letters and single postcards shall be increased by one quarter of an anna and the rate specified in respect of reply postcards shall be increased by half an anna."

Lowering of limits of total income liable to income-tax

7. (*1*) In Part I of Schedule IV to the Indian Finance Act, 1931, for the item—

"When the total income is less than Rs. 2,000 . *Nil.*"

the following shall be substituted, namely:—

"When the total income is Rs. 1,000 or upwards but is less than Rs. 2,000. Four pies in the rupee."

Provided that for the year beginning on the 1st day of April, 1931, the rate chargeable on any such total income shall be two pies in the rupee only.

(*2*) For the purpose of assessing and collecting the tax imposed by the proviso to sub-section (*1*),—

XI of 1922.

(*a*) the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part I of Schedule II to this Act, and

[1] This section came into effect on 30th September, 1931, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

(*b*) the Central Board of Revenue may make rules—

(*i*) making such further adaptations in the Indian Income-tax Act, 1922, as may seem to it to be necessary to secure that the tax shall be equitably levied, and XI of 1922.

(*ii*) regulating the procedure of income-tax authorities in securing the assessment and collection of the tax and the granting of refunds arising therefrom.

[1][(*3*) For the purpose of assessing and collecting the taxes, imposed by sub-section (*1*), the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part 1A of Schedule II to this Act.] XI of 1922.

Additional income-tax and super-tax for the current financial year.

8. (*1*) In respect of the year beginning on the 1st day of April, 1931, each rate of income-tax and super-tax specified in Schedule IV to the Indian Finance Act, 1931, excluding the rate imposed by section 7, shall be increased by one-eighth of its amount.

(*2*) For the purpose of assessing and collecting the additional tax imposed by sub-section (*1*),—

(*a*) the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part II of Schedule II to this Act, and XI of 1922.

(*b*) the Central Board of Revenue may make rules—

(*i*) making such further adaptations in the Indian Income-tax Act, 1922, as may seem to it to be necessary to secure that the additional tax shall be equitably levied, and XI of 1922.

(*ii*) regulating the procedure of income-tax authorities in securing the assessment and collection of the tax and the granting of refunds arising therefrom.

Additional income-tax and super-tax for the next financial year.

9. In respect of the year beginning on the 1st day of April, 1932, each rate of income-tax and super-tax specified in Schedule IV to the Indian Finance Act, 1931, excluding the rate imposed by section 7, shall be increased by one-fourth of its amount.

Amendment of section 19, Act X of 1923.

10. In sub-section (*7*) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1932" the figures "1933" shall be substituted. X of 1923.

[1] This sub-section was added by s. 2 of the Indian Finance (Supplementary and Extending) Amendment Act, 1932 (4 of 1932).

SCHEDULE I.

(*See* section 3.)

PART I.

Amendments to be made in Schedule II of the Indian Tariff Act, 1894.

1. Item No. 7 shall be deleted.

2. In Part I, the heading " DYES AND COLOURS " and Item No. 14C shall be omitted.

3. In Part I, the heading " MACHINERY ", and Items Nos. 18A, 18B, 18C and 18D shall be omitted.

4. In Item No. 27A, for the figures " 1 4 " in the last column the words " One rupee " shall be substituted.

5. In Item No. 34,—

(*a*) in sub-item (1), for the figures " 23 " the figure " 8 " shall be substituted;

(*b*) sub-item (2) shall be omitted; and

(*c*) sub-items (3) and (4) shall be re-numbered as sub-items (2) and (3).

6. After Item No. 41, and under the general head " *II.—Raw Materials and produce and articles mainly unmanufactured* ", the following heading and item shall be inserted, namely:—

" TEXTILE MATERIALS.

41A	COTTON, raw . . .	Pound	Six pies."

7. In Part II, under the general head " *III.—Articles wholly or mainly manufactured* ", the following heading and item shall be inserted, namely:—

" APPAREL.

41B	BOOTS AND SHOES . .	*Ad valorem* . . .	20 per cent. or 4 annas per pair whichever is higher."

8. In Item No. 43C, for the figures " $7\frac{1}{2}$ " in the last column, the figures " $12\frac{1}{2}$ " shall be substituted.

9. In Item No. 45A, after the word " silk ", wherever it occurs, the words " or artificial silk " shall be inserted.

SCHEDULE I—*contd.*

PART I—*contd.*

9A. In Item No. 40D, for the figure "5", the figure "8" shall be substituted.

10. In Part IV, under the general head "*III.—Articles wholly or mainly manufactured*", the following heading and item shall be inserted, namely:—

"DYES AND COLOURS.

58A	DYES derived from coal-tar, and coal-tar derivatives, used in any dyeing process."

11. After Item No. 59, the following heading and items shall be inserted, namely:—

"MACHINERY.

59A	MACHINERY, namely, such of the following articles as are not otherwise specified:—

(1) prime movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts;

(2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts;

(3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose;

(4) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials (other than cotton, hair, and canvas ply) and driving chains, but excluding driving ropes not made of cotton;

(5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof.

Note.—The term 'industrial system' used in sub-clause (3) means an installation designed to be employed direotly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.

59B	The following TEXTILE MACHINERY AND APPARATUS by whatever power operated, namely, healds, heald cords and heald knitting needles; reeds and shuttles; warp and weft preparation machinery and looms; bobbins and pirns; dobbies; Jacquard machines; Jacquard harness linen cards; Jacquard cards; punching plates for Jacquard cards; warping mills; multiples box sleys; solid border sleys; tape sleys; swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre willowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; draw-

SCHEDULE I—*contd.*

PART I—*concld.*

ing and denting hooks; sewing thread balls making machines; cumbli finishing machinery; hank boilers; cotton carding and spinning machines; mail eyes, lingoes, comber boards and comber board frames; take-up motions; temples and pickers; picking bands; picking sticks; printing machines; roller cloth; clear cloth; sizing flannel and roller skins.

59C | PRINTING AND LITHOGRAPHIC MATERIAL, namely, presses, lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, electrotype blocks, process blocks and highly polished copper or zinc sheets specially prepared for making process blocks, roller moulds, roller frames and stocks, roller composition, lithographic nap rollers, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead cutters, rule cutters, slug cutters, type casting machines, type setting and casting machines, paper in rolls with side perforations to be used after further perforation for type-casting, rule bending machines, rule mitreing machines, bronzing machines, stereotyping apparatus, paper folding machines, paging machines and clarified liquid glue but excluding ink and paper.

59D | COMPONENT PARTS OF MACHINERY, as defined in Nos. 59A, 59B and 59C, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose:

Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."

12. In Item No. 85,—

(*a*) the words " boots and shoes " shall be omitted;

(*b*) after the words " silk mixtures " the words " or of artificial silk or artificial silk mixtures, and boots and shoes " shall be added.

13. In Item No. 100, after the word " silk ", wherever it occurs, except in the seventh sub-item, the words " or artificial silk " shall be inserted.

14. In Item No. 100A, after the word " silk ", wherever it occurs, the words " or artificial silk " shall be inserted.

15. After Item No. 126, the following heading and item shall be inserted, namely:—

" CHEMICAL DRUGS AND MEDICINES.

127 | CAMPHOR."

16. After Item No. 128, the following item shall be inserted, namely:—

" 128A | ELECTRIC BULBS."

17. In Item No. 133, after the word " silk ", wherever it occurs, the words " or artificial silk " shall be inserted.

SCHEDULE I—*concld.*

PART II.

Amendment to be made in Schedule II to the Indian Finance Act, 1931.

In the entry relating to " Part IV, Nos. 58 to 64 inclusive ", for the words in the second column the following shall be substituted, namely:—

" All articles for the time being included in Part IV of the Second Schedule, except— (1) Dyes and Colours comprised in Item No. 58A, and (2) Machinery, comprised in Items Nos. 59A, 59B, 59C and 59D."	

SCHEDULE II.

Adaptations of the Indian Income-tax Act, 1922.

PART I.

(*See* section 7.)

Adaptations for the assessment and collection of income-tax in the current financial year on total incomes of Rs. 1,000 and upward and less than Rs. 2,000.

1. For the purposes of the proviso to sub-section (*2*) of section 18 of the Indian Income-tax Act, 1922, any person responsible for paying any income less than Rs. 2,000 chargeable under the head " Salaries " shall be deemed to have failed to deduct income-tax at the time of making all payments made before the commencement of this Act, and such person may make the adjustments permitted by that proviso.

2. Notwithstanding that the Income-tax Officer has assessed the total income of an assessee under section 23 of the Indian Income-tax Act, 1922, and has found that nothing is payable thereon, he may proceed to determine the sum payable by such assessee by virtue of section 7 of this Act, and such sum shall, for the purposes of the Indian Income-tax Act, 1922, be deemed to be a sum determined under section 23 of that Act.

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[1][PART IA.

(*See* section 7.)

Adaptations to provide for the summary assessment of such incomes.

1. The Income-tax Officer may, save where he has served a notice under sub-section (*2*) of section 22 of the Indian Income-tax Act, 1922,

[1] This Part was inserted by s. 3 of the Indian Finance (Supplementary and Extending) Amendment Act, 1932 (4 of 1932).

SCHEDULE II—*contd.*

PART IA—*contd.*

make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (*2*) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1932-33 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1931-32.]

PART II.

(*See* section 8.)

Adaptations for the assessment and collection of additional income-tax and super-tax in the current financial year.

1. For the purposes of the proviso to sub-section (*2*) of section 18 of the Indian Income-tax Act, 1922, any person responsible for paying any income chargeable under the head " Salaries " shall be deemed to have made a deficient deduction in respect of the additional income-tax imposed by section 8 of this Act at the time of making all payments made before the commencement of this Act, and such person may make the adjustments permitted by that proviso.

SCHEDULE II—*concld.*

PART II—*contd.*

2. Notwithstanding that the Income-tax Officer has assessed the total income of an assessee and has determined the sum payable thereon under section 23 of the Indian Income-tax Act, 1922, he may proceed to determine the further sum payable by such assessee by virtue of section 8 of this Act, and such further sum shall, for the purposes of the Indian Income-tax Act, 1922, be deemed to be a sum determined under section 23 of that Act.

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